

THE IRAQ OIL-FOR-FOOD PROGRAM: STARVING FOR ACCOUNTABILITY

HEARING

BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY,
EMERGING THREATS AND INTERNATIONAL
RELATIONS

OF THE

COMMITTEE ON
GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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CONTENTS

Hearing held on April 21, 2004	Page 1
Statement of:	
Hankes-Drielsma, Claude, advisor, Iraq Governing Council and chairman, Roland Berger, Strategy Consultants	88
Kennedy, Patrick F., U.S. Representative for United Nations Manage- ment and Reform, U.S. Mission to the United Nations, U.S. Depart- ment of State; Robin L. Raphel, coordinator, Office of Iraq Reconstruc- tion, U.S. Department of State; Michael J. Thibault, Deputy Director, Defense Contract Audit Agency, U.S. Department of Defense; and Lee Jeffrey Ross, Jr., Senior Advisor, Executive Office for Terrorist Financ- ing and Financial Crimes, U.S. Department of the Treasury	25
Luck, Edward C., professor of practice in international and public affairs and director, center on international organization, School of Inter- national and Public Affairs, Columbia University; Claudia Rosett, jour- nalist, senior fellow, the Foundation for the Defense of Democracies, adjunct fellow, the Hudson Institute; Nile Gardiner, fellow, Anglo- American Security Policy, the Heritage Foundation; and Nimrod Raphaeli, senior analyst, Middle East Media Research Institute	130
Letters, statements, etc., submitted for the record by:	
Davis, Hon. Tom, a Representative in Congress from the State of Vir- ginia, prepared statement of	5
Gardiner, Nile, fellow, Anglo-American Security Policy, the Heritage Foundation, prepared statement of	153
Hankes-Drielsma, Claude, advisor, Iraq Governing Council and chairman, Roland Berger, Strategy Consultants, prepared statement of	92
Kennedy, Patrick F., U.S. Representative for United Nations Manage- ment and Reform, U.S. Mission to the United Nations, U.S. Depart- ment of State, prepared statement of	29
Luck, Edward C., professor of practice in international and public affairs and director, center on international organization, School of Inter- national and Public Affairs, Columbia University, prepared statement of	134
Maloney, Hon. Carolyn B., a Representative in Congress from the State of New York, prepared statement of	17
Raphaeli, Nimrod, senior analyst, Middle East Media Research Institute, prepared statement of	165
Raphel, Robin L., coordinator, Office of Iraq Reconstruction, U.S. Depart- ment of State, prepared statement of	41
Rosett, Claudia, journalist, senior fellow, the Foundation for the Defense of Democracies, adjunct fellow, the Hudson Institute, prepared state- ment of	145
Ross, Lee Jeffrey, Jr., Senior Advisor, Executive Office for Terrorist Fi- nancing and Financial Crimes, U.S. Department of the Treasury, pre- pared statement of	58
Ruppersberger, Hon. C.A. Dutch, a Representative in Congress from the State of Maryland, prepared statement of	21
Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut, letted dated April 19, 2004	83
Thibault, Michael J., Deputy Director, Defense Contract Audit Agency, U.S. Department of Defense, prepared statement of	50
Waxman, Hon. Henry A., a Representative in Congress from the State of California, prepared statement of	11

THE IRAQ OIL-FOR-FOOD PROGRAM: STARVING FOR ACCOUNTABILITY

WEDNESDAY, APRIL 21, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING
THREATS AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 210, Cannon House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Turner, Lewis, Putnam, Schrock, Duncan, Murphy, Kucinich, Lantos, Lynch, Maloney, Ruppertsberger, Tierney, Watson, Waxman [ex officio], and Tom Davis of Virginia [ex officio].

Staff present: Lawrence Halloran, staff director and counsel; J. Vincent Chase, chief investigator; R. Nicholas Palarino, senior policy advisor; Thomas Costa and Kristine McElroy, professional staff members; Robert Briggs, clerk; Richard Lundberg, detailee; Karen Lightfoot, minority communications director/senior policy advisor; Jeff Baran and David Rappalo, minority counsels; Earley Green, minority chief clerk; Jean Gosa, minority assistant clerk; and Andrew Su, minority professional staff member.

Mr. SHAYS. A quorum being present, the Subcommittee on National Security, Emerging Threats and International Relations hearing entitled, "The Iraq Oil-for-Food Program: Starving for Accountability," is called to order.

From its inception in 1996, the United Nations Oil-for-Food Program was susceptible to political manipulation and financial corruption. Trusting Saddam Hussein to exercise sovereign control over billions of dollars of oil sales and commodity purchase invited the illicit premiums and kickback schemes now coming to light. Because oversight was left to a security council committee that could only act by unanimous consent, and to a U.N. bureaucracy receiving a percentage of the proceeds, no one had sufficient authority or incentive to police the program.

So what began as a temporary safety valve to meet the humanitarian needs of the oppressed Iraqi people was allowed to become a permanent torrent of sanctions busting and profiteering. As one report observed in September 2002, whenever Saddam Hussein wanted to increase his hard currency earnings at the expense of the Oil-for-Food program, the Iraqis shut down oil exports or claimed imminent infrastructure collapse, as if on cue, his supporters in the international community, warned of the horrific con-

sequences that would befall the Iraqi people, the security council eased the sanction regime and Saddam got the hard currency he needed to sustain his brutal regime.

But much is still not known about the exact details of Oil-for-Food transactions. That is one reason we convened this hearing today, to help pierce the veil of secrecy that still shrouds the largest humanitarian aid effort in history. We want the State Department, the CPA and the U.N. to know there has to be a full accounting of all Oil-for-Food transactions, even if that unaccustomed degree of transparency embarrasses some members of the Security Council. We want to know what is being done to recoup the billions of dollars that literally slipped through the U.N. fingers, and we want to know that the United Nations will investigate the people and reform the institutions responsible for a scandal of almost unthinkable seriousness.

Yesterday, U.N. Secretary General Kofi Annan assured me he wants to get to the bottom of this scandal and restore faith in the ability of the U.N. to do its job. He said security council members, including Russia, will support a resolution giving the commission the independence and authority necessary to investigate allegations of corruption in the Oil-for-Food program. We will monitor their work to be certain that the commission can follow and is following the facts wherever they lead.

In defense of the program, some say it is enough, the U.N. fulfilled its complex Oil-for-Food mandate under extraordinary circumstances, successfully rescuing the bulk of the Iraqi population from starvation and disease. They say padded prices and other leakage around the sanctions were inevitable, widely known and politically necessary to secure international consequence on Iraq. Current charges of corruption, some believe, are merely signs of a local power struggle with the Iraqi governing council of the conspiratorial fantasies of perpetual U.N. haters. They argue indulging in finger pointing now could inhibit the U.N.'s ability or willingness to help restore a sovereign Iraq.

True, the program did succeed in raising the national nutrition levels of most Iraqis. But to ignore profoundly serious allegations of malfeasance, or worse, in the Oil-for-Food program would be to deny the Iraqi people the accounting they deserve and leave the U.N. under an ominous cloud.

In Iraq, and elsewhere, the world needs an impeccably clean, transparent U.N. The dominant instrument of multi-lateral diplomacy should embody our highest principles and aspirations, not routinely sink to the lowest common political denominator. We have to be certain security council votes on vital questions of global security, and international order, are not for sale to the highest bidder. The U.N. may be called upon to act as trustee for another failed state in receivership. It should have the capacity to do so effectively, honestly and openly.

Three panels of distinguished witnesses will testify today. We appreciate their time, their expertise and their insights, as we explore the impacts and implications of the U.N. Oil-for-Food program.

At this time the Chair will recognize, with the acceptance and suggestion of Mr. Kucinich, the chairman of the full committee, Mr. Davis.

[The prepared statement of Hon. Christopher Shays follows:]

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Statement of Rep. Christopher Shays April 21, 2004

From its inception in 1996, the United Nations' Oil for Food Program was susceptible to political manipulation and financial corruption. Trusting Saddam Hussein to exercise sovereign control over billions of dollars of oil sales and commodity purchases invited the illicit premiums and kickback schemes now coming to light. Because oversight was left to a Security Council committee that could only act by unanimous consent, and to a UN bureaucracy receiving a percentage of the proceeds, no one had sufficient authority or incentive to police the program.

So, what began as a temporary safety valve to meet the humanitarian needs of the oppressed Iraqi people was allowed to become a permanent torrent of sanctions busting and profiteering. As one report observed in September 2002, whenever Saddam Hussein wanted to increase his hard currency earnings at the expense of the Oil-for-Food program, the Iraqis shut down oil exports or claimed imminent infrastructure collapse. As if on cue, his supporters in the international community warned of the horrific consequences that would befall the Iraqi people. The Security Council eased the sanctions regime, and Saddam got the hard currency he needed to sustain his brutal regime.

*Statement of Rep. Christopher Shays
April 21, 2004
Page 2 of 3*

But much is still not known about the exact details of Oil for Food transactions. That is one reason we convene this hearing today: to help pierce the veil of secrecy that still shrouds the largest humanitarian aid effort in history. We want the State Department, the CPA, and the UN to know there has to be a full accounting of all Oil for Food transactions, even if that unaccustomed degree of transparency embarrasses some members of the Security Council. We want to know what is being done to recoup the billions of dollars that literally slipped through UN fingers. And we want to know the United Nations will investigate the people, and reform the institutions, responsible for a scandal of almost unthinkable scope and seriousness.

Yesterday, UN Secretary General Kofi Annan assured me he wants to get to the bottom of this scandal and restore faith in the ability the UN to do its job. He said Security Council members, including Russia, will support a resolution giving the commission the independence and authority necessary to investigate allegations of corruption in the Oil for Food Program.

We will monitor their work closely to be certain that commission can follow the facts wherever they lead.

In defense of the program, some say it is enough the UN fulfilled its complex Oil for Food mandate under extraordinary circumstances, successfully rescuing the bulk of the Iraqi population from starvation and disease. They say padded prices and other leakage around the sanctions were inevitable, widely known and politically necessary to secure international consensus on Iraq. Current charges of corruption, some believe, are merely signs of a local power struggle within the Iraqi Governing Council or the conspiratorial fantasies of perpetual UN haters. They argue indulging in finger pointing now could inhibit the UN's ability, or willingness, to help restore a sovereign Iraq.

True, the program did succeed in raising the national nutritional level of most Iraqis. But to ignore profoundly serious allegations of malfeasance, or worse, in the Oil for Food Program would be to deny the Iraqi people the accounting they deserve and leave the UN under an ominous cloud.

*Statement of Rep. Christopher Shays
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In Iraq, and elsewhere, the world needs an impeccably clean, transparent UN. The dominant instrument of multilateral diplomacy should embody our highest principles and aspirations, not routinely sink to the lowest common political denominator. We have to be certain Security Council votes on vital questions of global security and international order are not for sale to the highest bidder. The UN may be called upon to act as trustee for another failed state in receivership. It should have the capacity to do so effectively, honestly and openly.

Three panels of distinguished witnesses will testify today. We appreciate their time, their expertise and their insights as we explore the impacts and implications of the UN Oil for Food program.

Mr. TOM DAVIS OF VIRGINIA. Thank you. I want to commend you for holding this important hearing on the beleaguered United Nations Oil-for-Food program.

In 1995, U.N. Security Council Resolution 986 officially sanctioned the Oil-for-Food program. This program permitted Saddam Hussein's regime to sell oil to purchase food, medicine and other humanitarian goods. Unfortunately, we now know that the program conceded far too much control to Saddam, who apparently pocketed billions of dollars by demanding kickbacks from companies who wanted to buy the oil, and charging illicit commissions to businesses that were sending the humanitarian goods to Iraq. So instead of serving the program's commendable official purpose, the money went to breaking sanctions, building palaces and buying arms. What terrible, terrible irony.

For those of us who believe the United Nations is a beacon of hope for humanity, who believe in its promise of peace and prosperity and principle and progress, this program's failure is disappointing, to say the least. I'll be blunt: this scandal threatens the U.N.'s reputation and effectiveness and raises serious questions for those who portray the world body as a ready, willing and able route of retreat for U.S. forces. For every complex problem, there is a simple solution that may not work. News about this kickback scandal weakens the United Nation's standing around the globe, including in Iraq, and should force everyone to tone down the rhetoric asserting that a return to U.N.-led multilateralism would be some sort of magic panacea.

In August 2003 and February of this year, I led bipartisan delegations to war-torn Iraq. As part of these trips, I witnessed firsthand what Saddam did with the profits from the Oil-for-Food program. I saw the lavish palaces he built around Iraq, including one I visited in Tikrit, which is now occupied by the U.S. Army. It's hard not to marvel at the enormity and beauty of these buildings. But then when you take even a glimpse of the average Iraqi's living conditions, the brutal criminality of Saddam's regime, and the terrible bastardization of the Oil-for-Food program, it hits home. Suddenly the palaces are tragically gaudy.

In short, the Oil-for-Food program was not one of the U.N.'s shining moments. In fact, it was a complete and utter disaster. There are well-documented reports of how Saddam was able to skirt the rules of the Oil-for-Food program, so that he could enrich himself, his Baathist cronies and unfortunately, many non-Iraqis, who should have known better. My question, and one that I hope this hearing will get to the bottom of is, where was the United Nations all these years? Did the U.N. know that Saddam was using profits from this program to enhance his regime of terror? Or were they simply naive and blind.

It's one thing if Saddam was able to pull this off in secrecy. It's quite another if those charged with administering the program knew about the corruption and yet could not or would not raise the red flag. I hope that everyone involved in the program, from Secretary General Kofi Annan on down fully grasp the ramifications of this scandal. I have a feeling this won't be the last time a program like this will be implemented, so we need to let experience be the teacher here.

Let's not let anyone slide the issue under the carpet. The U.N. is too important for that. Over the years, there have been attempts to pull the United States out of the United Nations, to withhold funds and dues and cut funding. I've opposed those moves, because as I said at the outset, I believe the United Nations offers unique and important hope for humanity. But corruption of the sort we're seeing here gives all of us pause. We can't miss the opportunity to learn from the mistakes that have been made and in turn, help restore trust and faith in this body.

Mr. Chairman, I appreciate your persistence on this issue and look forward to the testimony we're about to hear today.

[The prepared statement of Hon. Tom Davis follows:]

Statement of Chairman Tom Davis
Hearing on
“The Iraqi Oil for Food Program: Starving for Accountability”
Subcommittee on National Security, Emerging Threats and International Relations
April 21, 2004

Mr. Chairman, I want to commend you for holding this important hearing on the beleaguered United Nations Oil-for-Food program.

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I’ll be blunt. This scandal threatens the U.N.’s reputation and effectiveness – and raises serious questions for those who portray the world body as a ready, willing and able route of retreat for U.S. forces. For every complex problem, there’s a simple solution that may not work. News about this kickback scandal weakens the U.N.’s standing around the globe, including in Iraq, and should force everyone to tone down the rhetoric asserting that a return to U.N.-led multilateralism would be some sort of magic panacea.

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In short, the Oil-for-Food program was not one of the U.N.’s shining moments; in fact, it was a complete and utter disaster.

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bottom of, is where was the United Nations all these years? Did the U.N. know that Saddam was using profits from this program to enhance his regime of terror or were they simply naïve and blind?

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I hope that everyone involved in the program, from Secretary General Kofi Annan down, fully grasps the ramifications of this scandal. I have a feeling this won't be the last time a program like this will be implemented, so we need to let experience be the teacher here.

Let's not let anyone slide this issue under the carpet. The U.N. is too important for that. Over the years there have been attempts to pull the U.S. out of the U.N., to withhold dues and cut funding. I've opposed those moves because, as I said at the outset, I believe the U.N. offers unique and important hope for humanity. But corruption of the sort we're seeing here gives me pause. We can't miss the opportunity to learn from the mistakes that have been made and, in turn, help restore trust and faith in this body.

Mr. Chairman, I appreciate your persistence on this issue and look forward to the testimony we are about to hear.

Mr. SHAYS. I thank you, and Mr. Kucinich and I appreciate the resources you give this subcommittee to do our job. Thank you.

At this time, the Chair recognizes the ranking member, Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman, and thank you to the chairman of the full committee and to Mr. Waxman our ranking member of the full committee. Thank you for holding this hearing.

Recently, allegations have surfaced that the Iraqi people did not receive all the goods and benefits to which they were entitled under the Oil-for-Food program. Rather, program revenue and goods may have been funneled to Saddam Hussein and his supporters through smuggling, kickbacks and pricing schemes, possibly even with the complicity of United Nations officials. These troublesome charges need to be thoroughly investigated by an independent authority.

I'm pleased that U.N. Secretary General Kofi Annan has recently agreed to do just that and appointed a man of integrity and professionalism, Paul Volcker, to lead the inquiry. The committee hearing today is important and necessary.

However, when it comes to the conduct of our own Government, oversight is not the responsibility of any other authority than Congress, and the conduct of the U.S. Government in mounting an espionage campaign against the security council and member country delegations prior to the vote on Iraq is deeply troubling and also deserves investigation.

In March of last year, a U.S. Nation Security Agency memo was leaked to a British newspaper. The memo detailed plans for the U.S. Government to wiretap telephones and track e-mails of swing vote countries on the security council in order to pressure these countries to vote with the United States in favor of military action in Iraq. The memo stated that the National Security Agency was going to "mount a surge" directed at the U.N. Security Council members for insights as to how membership was reacting to "the ongoing debate regarding Iraq, plans to vote on any related resolutions, what related policies and negotiating positions they may be considering, alliances and dependencies"

In particular, they were going "to revive and create efforts against the UNSC members in Angola, Cameroon, Chile, Bulgaria and Guinea, as well as an extra focus on Pakistan U.N. matters." According to Mexico's U.N. Ambassador, Enrique Berruga, it was obvious that the United States was spying on his activities. In an interview with the Associated Press, he described a meeting of six nations to work out a compromise Iraq resolution in early March. "Only people in that room knew what that document said," he recalled. Early the next morning he received a call from a U.S. diplomat, saying the United States found that text totally unacceptable.

Ambassador Negroponte was scheduled to testify today. His testimony on questions about the espionage would be relevant since as head of the U.S. delegation, he would have been aware of and approved of spying activities against his peers at the security council. I want to let the members of the committee know that I think it's important that this subcommittee, while we're holding this hearing today, also consider holding another hearing about the espionage

our Government directed at our allies on the security council of the United Nations.

These acts of espionage may have severely undermined the stature of the United States within the international community and our ability to work effectively in the U.N. system. In short, our ability to be a moral force in judging the activities of the United Nations today also depends on our ability to be able to be forthcoming with respect to our own conduct at the U.N. Today I will send a letter to Ambassador Negroponte requesting information about his role in the espionage incident. I would like to put that letter into the record.

And finally, the troubling revelations that are being discussed today should not mislead Congress. We need the U.N. in order to save the U.S. position in Iraq. Even President Bush understands that and is counting on U.N. Envoy Lakhdar Brahimi to find a political solution to the governance question.

I look forward to the testimony of the distinguished witnesses, and urge the subcommittee to hold additional oversight hearings on the U.S. espionage directed against other members of the security council. Thank you.

Mr. SHAYS. Thank you. At this time, the Chair would recognize the ranking member of the full committee, Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

Today's hearing is about the Oil-for-Food program, which was established in 1995 to provide for the basic needs of Iraqis while U.N. sanctions were in effect. Recently auditors, journalists and even U.N. officials have made serious allegations of corruption, overpricing, kickbacks and smuggling under the Oil-for-Food program. These disturbing allegations should be fully investigated. We must learn what went wrong and how it was permitted to occur, and those responsible for illicit activities must be held accountable. We must make every effort to retrieve Iraqi assets lost to mismanagement and abuse.

Congress is responding to allegations of misconduct in this U.N. program, as we should. Already, GAO has investigated and reported on overpricing and illicit surcharges. The Senate Foreign Relations Committee held a hearing on this topic, and the House International Relations Committee intends to do so. I commend the chairman for holding this hearing to further examine these issues.

But while congressional committees are eager to investigate a U.N. program, we seem to be ignoring potential abuses involving the U.S.-run development fund for Iraq, which is a successor to the Oil-for-Food program. These priorities don't make sense. While it is important for Congress to examine problems in U.N. programs, we have an even greater responsibility to examine problems in programs our own Government directs.

In my statement today, I want to outline some of the problems that have arisen in the administration of the Development Fund for Iraq [DFI], and some of the questions that Congress should be asking about this program. The Development Fund for Iraq was established on May 22, 2003. U.N. Security Council Resolution 1483 authorized the coalition divisional authorities to direct disbursements from the fund in a transparent manner to benefit and meet the humanitarian needs of the Iraqi people.

The Oil-for-Food program ended in November 2003, and \$7.6 billion in unused program funds have been transferred to the DFI; 95 percent of Iraq's oil revenues are also placed in the account. As a result, a total of \$16.7 billion has been deposited in the DFI. This is a tremendous amount of money, and it has the potential to do an enormous amount of good for the Iraqi people.

Unfortunately, the DFI has been plagued by some of the same problems that we've seen in the Oil-for-Food program, overpricing and the use of middlemen. One example involves the use of DFI funds to import gasoline into Iraq. Since last May, about \$1.6 billion of DFI funds have been obligated to Halliburton for the importation of fuels into Iraq. This makes Halliburton one of the largest, if not the largest, recipient of DFI funds.

Over the past several months, Representative Dingle and I have been investigating Halliburton's no-bid contract to import gasoline into Iraq, and its use of an obscure Kuwaiti company, Altanmia Commercial Marketing Co., to buy gasoline and transport the gasoline. We have found evidence of significant overcharging involving DFI funds.

The size of the potential overpayment to Halliburton is large. In December, the Defense Contract Audit Agency announced that its draft audit found Halliburton had overcharged by as much as \$61 million through September 30, with significant additional overcharges likely in the months thereafter. Almost all of this money came from the DFI.

Another example of apparent waste involves the Coalition Provisional Authority's use of DFI funds to purchase 34,000 AK-47 assault rifles and 14 million boxes of ammunition. Pentagon officials raised concerns with these weapons purchases, noting that existing arms stockpiles were available. According to media reports, the U.S. Marines found a cache of 100,000 AK-47s near Tikrit last year.

Despite the evidence of overcharging and waste, the vast amounts of money involved and our experience with the Oil-for-Food program, there has been a serious lack of oversight of the DFI. The Defense Contract Audit Agency, Defense Contract Management Agency, General Accounting Office, Coalition Provisional Authority Inspector General and Treasury Department are all investigating the now-terminated Oil-for-Food program. But who is auditing the expenditures of its successor, the DFI?

DCAA only audits DFI expenditures when they are intermingled with appropriated funds, and its audit of Halliburton's gasoline importation was stymied by the administration. The Pentagon Inspector General refused to audit the DFI, saying that GAO was already performing these audits. We learned from the GAO that the IG was mistaken. The CPA IG indicated that the International Advisory and Monitoring Board would handle the audits of the DFI. However, this U.N.-mandated, international board is only just beginning its work.

If our experience with the Oil-for-Food program has taught us anything, it is the importance of aggressively monitoring the use of Iraqi funds. Federal agencies should be actively assuring the transparency and accountability of the DFI. This fund has crucial

implications for the success of our efforts in Iraq and for the well-being of the Iraqi people.

Mr. Chairman, I strongly encourage you to hold additional hearings regarding oversight of the DFI. This committee is appropriately examining the record of the Oil-for-Food program. It is important that we follow through and provide proper oversight of its successor, the DFI.

Thank you for this chance to make an opening statement.

[The prepared statement of Hon. Henry A. Waxman follows:]

**Opening Statement of
Rep. Henry A. Waxman at the
Subcommittee on National Security, Emerging Threats and International
Relations Hearing on
The Iraq Oil-for-Food Program: Starving for Accountability
April 21, 2004**

Today's hearing is about the Oil-for-Food Program, which was established in 1995 to provide for the basic needs of Iraqis while U.N. sanctions were in effect. Recently, auditors, journalists, and even U.N. officials have made serious allegations of corruption, overpricing, kickbacks, and smuggling under the Oil-for-Food Program.

These disturbing allegations should be fully investigated. We must learn what went wrong and how it was permitted to occur, and those responsible for illicit activities must be held accountable. We must make every effort to retrieve Iraqi assets lost to mismanagement and abuse.

Congress is responding to the allegations of misconduct in this U.N.-run program, as well we should. Already, GAO has investigated and reported on overpricing and illicit surcharges. The Senate Foreign Relations Committee held a hearing on this topic, and the House International Relations Committee intends to do so. I commend the Chairman for holding this hearing to further examine these issues.

But while congressional committees are eager to investigate a U.N. program, we seem to be ignoring potential abuses involving the U.S.-run Development Fund for Iraq, which is the successor to the Oil-for-Food Program. These priorities don't make sense. While it is important for Congress to examine problems in U.N. programs, we have an even greater responsibility to examine problems in programs our own government directs.

In my statement today, I will outline some of the problems that have arisen in the administration of the Development Fund for Iraq and some of the questions that Congress should be asking about this program.

The Development Fund for Iraq was established on May 22, 2003. U.N. Security Council Resolution 1483 authorized the Coalition Provisional Authority to direct disbursements from the Development Fund in a transparent manner to benefit and meet the humanitarian needs of the Iraqi people. The Oil-for-Food Program ended in November 2003, and \$7.6 billion in unused program funds have been transferred to the DFI. Ninety-five percent of Iraq's oil revenues are also placed in the account. As a result, a total of \$16.7 billion has been deposited into the DFI. This is a tremendous amount of money that has the potential to do an enormous amount of good for the Iraqi people.

Unfortunately, the DFI has been plagued by some of the same problems that we've seen with the Oil-for-Food Program: overpricing and the use of middlemen.

One example involves the use of DFI funds to import gasoline into Iraq. Since last May, about \$1.6 billion of DFI funds have been obligated to Halliburton for the importation of fuels into Iraq. This makes Halliburton one of the largest – if not the largest – recipient of DFI funds.

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Despite the evidence of overcharging and waste, the vast amounts of money involved, and our experience with the Oil-for-Food Program, there has been a serious lack of oversight of the DFI.

The Defense Contract Audit Agency, Defense Contract Management Agency, General Accounting Office, Coalition Provisional Authority Inspector General, and Treasury Department are all investigating the now-terminated Oil-for-Food Program.

But who is auditing the expenditures of its successor, the DFI? DCAA only audits DFI expenditures when they are intermingled with appropriated funds, and its audit of Halliburton's gasoline importation was stymied by the Administration. The Pentagon Inspector General refused to audit the DFI, saying that GAO was already performing these audits. We learned from GAO that the IG was mistaken. The CPA IG indicated that the International Advisory and Monitoring Board would handle the audits of the DFI. However, this U.N.-mandated, international board is only just beginning its work.

If our experience with the Oil-for-Food Program has taught us anything, it is the importance of aggressively monitoring the use of Iraqi funds. Federal agencies should be actively ensuring the transparency and accountability of the DFI. This fund has crucial implications for the success of our efforts in Iraq and for the well-being of the Iraqi people.

Mr. Chairman, I strongly encourage you to hold additional hearings regarding oversight of the DFI. This Committee is appropriately examining the record of the Oil-for-Food Program. It's important that we follow through and provide proper oversight of its successor, the DFI.

Mr. SHAYS. I thank the gentleman.

At this time the Chair would recognize the vice chairman of the committee, Mr. Michael Turner.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank you for your leadership in holding this important hearing. I certainly look forward to the testimony of the esteemed witnesses.

Although the Oil-for-Food program may have avoided a humanitarian crisis and generally achieved its goals, recent information shows that the program was prone to abuse. What is most disturbing is that foreign governments may have been involved in some of the fraud and kickback schemes. These activities were expressly against the U.S. United States Security Council efforts, thus undermining the effectiveness of the organization. As Chairman Davis has acknowledged, as the future of the U.N. role in Iraq is discussed, reviewing this program is very important.

Secretary General Annan's announcement of an investigation into these abuses is important. We must ensure that the investigation is complete, transparent and done without national bias. I look forward to hearing the testimony of our panelists and learning of their ideas for better accountability for future programs, and I thank our chairman for his leadership.

Mr. SHAYS. I thank the gentleman.

The Chair recognizes Carolyn Maloney from New York.

Mrs. MALONEY. Thank you, Chairman Shays and Ranking Member Kucinich. I would also like to commend the leadership of Chairman Davis and Ranking Member Waxman in their oversight of taxpayer dollars in the contracting process.

I have the honor of representing the United Nations in Congress. I sincerely hope that we can get to the bottom of these allegations very quickly, so that they do not in any way taint the credibility and good work that the United Nations does in providing humanitarian assistance and leadership around the world. The U.N. Oil-for-Food program was established in 1995 by the Security Council. It was intended with all good purpose to allow Iraq to export oil to oil traders for imports of food and other necessities in response of concerns in the international community and in America about the welfare of the Iraqi people, due to the post-Gulf war sanctions against Iraq.

Overall, the program was a success. It delivered sufficient amounts of food for all the 27 million Iraqi people. It resulted in a drop of malnutrition among Iraqi children by 50 percent, and contributed to national vaccination campaigns that helped reduce child mortality and eradicated polio in Iraq for the last 3 years.

I think that we can all agree that the program had its flaws, and that these recent allegations of mismanagement and corruption are tremendously serious. We need to understand if any of the U.N. employees or the member States knew about Saddam Hussein's manipulation of the Oil-for-Food program. I must say, and I welcome Ambassador Kennedy, whom I had an opportunity to meet with in Iraq under the leadership of Chairman Davis, a number of us went there twice in a bipartisan delegation to review procurement practices and policies in Iraq.

One thing that was vibrant and clear were the many, many palaces, I believe there were 74 of them, with all shades of marble.

When you contrasted this abuse of using public money for this purpose to the facilities for the people, one of the hospitals we visited in Iraq did not even have linoleum on the floor. They did not even have curtains separating the operating rooms. There was a definite misuse of funds daily in the priorities in that country.

I am tremendously heartened that U.N. Secretary General Kofi Annan announced very strongly that he will appoint an independent panel to conduct an inquiry into the Oil-for-Food program. This is a critical step. The respected Paul Volcker will be heading that panel. This is a testimony to Secretary Annan's determination to address the allegations, find out where the problems were and apply the proper punishment. I think I can speak for most of my constituents and the majority of Americans when I say that the fact that Saddam Hussein invented a kickback system to profit from the Oil-for-Food program is absolutely reprehensible. And if these allegations prove to be true, I believe we must punish those who profited illegally off the Iraqi people. I hope that we will learn very importantly from the inquiry so that we can apply the lessons that we learn to the future programs and policies. We need to understand what were the fundamental flaws in the design of this program that allowed these abuses to take place.

It seems to me that one solution to the problem would be possibly to require that the World Bank handle all funding transactions for any future humanitarian assistance programs, not an independent private bank. This would remove even the appearance of secret behavior, as the World Bank's transactions are open to the Government, the United Nations, the public and transparency is required in their actions.

I also hope to learn more about where these allegations are coming from and how we can prove them and did the U.N. staff know anything about it, how much did the member states know. I'm sure that we will learn a great deal from the testimony today. I look forward to hearing your testimony and thank you for being here.

Thank you again, Chairman Shays, for being on the ball and calling this hearing.

[The prepared statement of Hon. Carolyn B. Maloney follows:]

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Statement by Congresswoman Carolyn B. Maloney
Government Reform Committee
Subcommittee on National Security, Emerging Threats and International Relations
Hearing: "The Iraq Oil-for-Food Program: Starving for Accountability"
April 21, 2004
210 CHOB

I'd like to thank Congressman Shays and Ranking Member Kucinich for holding this important hearing today. I represent the United Nations and hope that we can get to the bottom of these allegations so they do not taint the credibility and good work the UN does in providing humanitarian assistance around the world.

The United Nations Oil-for-Food Program was established on April 14, 1995 by Security Council Resolution 986. It was intended to allow Iraq to export oil to oil traders for imports of food and other necessities in response to growing concerns in the international community about the welfare of the Iraqi people due to the post-Gulf War sanctions regime against Iraq.

Overall, the program was a success. It delivered sufficient amounts of food for all of the 27 million Iraqi residents, which resulted in a drop in malnutrition among Iraqi children by 50% and contributed to national vaccination campaigns that helped reduce child mortality and eradicated polio in Iraq for the last three years.

I think we can all agree that the program had its flaws, and that these recent allegations of mismanagement and corruption are very serious. I understand that the allegations of personal misdeeds come from one source which may have an interest in preventing the U.N.'s involvement in Iraq. I hope to learn more about that issue today. Certainly, we must thoroughly investigate each of the allegations. This is why the news yesterday that U.N. Secretary General Annan will appoint an independent panel to conduct an inquiry into the Oil-for-Food program is critical. The respected Paul Volcker will be heading the panel, a testament to the Secretary General's determination to address the allegations, find out where the problems were, and apply the proper punishment if needed.

I think I can speak for the majority of Americans when I say that the fact that Saddam Hussein invented a kickback system to profit from the Oil-for-Food Program is reprehensible, at best. And, if these allegations prove to be true, I believe we must punish those who profited illegally.

off of the Iraqi people. I hope that we will learn from the inquiry so we can apply those lessons learned. It seems to me that one solution to the problem would be to require that the World Bank will handle all funding transactions for any future humanitarian assistance programs, not an independent private bank. This would remove even the appearance of untoward behavior.

I also hope to learn more about the allegations and where they are coming from. Where is the hard evidence and where is it coming from? Did the UN staff know what was going on? How much did the Member states know?

I'm sure there will be more questions as our witnesses provide their testimony. Thank you for being here today. I look forward to asking questions.

Thank you.

Mr. SHAYS. I thank you very much.

At this time, the Chair recognizes the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. I won't take anywhere close to my full 5 minutes.

But the memorandum we've been given says that the GAO estimates that the Hussein regime obtained \$10.1 billion in illegal revenues from this program, and that allegations of corruption have generally fallen into four categories, oil smuggling, surcharges on oil exports, kickbacks on humanitarian contracts, and last, abuse by U.N. personnel. I remember just a few years ago when 60 Minutes had a scandalous report about the waste, fraud and abuse and the corruption at the United Nations, and in response to that, we withheld dues for a period of time, trying to put pressure to bring about some reforms.

And the United States was rightly criticized for that, in spite of the fact—and very few people pointed it out at that time—that the lowest share of any U.N. peacekeeping operation that the United States has paid has been 31 percent, and we have for many years paid 25 percent at least of all the humanitarian efforts. In fact, in some of these peacekeeping efforts, like in Iraq now, we're paying 95 or 98 percent of the cost, and we've paid almost all the costs in the Balkans and so forth.

So the United States has paid many billions more than its share of the activities of the United Nations over the years. It's obvious that we will be in the United Nations for as long as that institution exists. Therefore, I think we as Members of Congress have an obligation to try to do whatever we can to make sure that these many, many billions that the United States has and will continue to contribute to the United Nations is not spent in some corrupt fashion, as has occurred in this scandal that has taken place in this Oil-for-Food program.

So I appreciate the fact that you've called this hearing today, and I look forward to hearing the testimony of the witnesses. Thank you very much.

Mr. SHAYS. I thank the gentleman.

At this time, the Chair would recognize Mr. Ruppertsberger.

Mr. RUPPERSBERGER. Thank you, Chairman Shays and Chairman Davis, Ranking Member Waxman. I think we can all agree this is an extremely important subject. We're talking about the operational process that involves substantially easing human suffering in Iraq throughout the 1990's and ending last spring. I don't think we should lose sight of that noble mission and the people who worked hard to help Iraqi civilians.

With that said, I was struck by some of the very fundamental questions as I read through the testimony, memos, faxes, news articles and op-ed pieces about the Oil-for-Food program. There are many allegations abounding, and we're talking about possible criminal activity, smuggled oil, manipulated oil prices, kickbacks, bribes and direct U.N. personnel involvement. These are not simple transgressions. They are very serious allegations.

So the former prosecutor in me is standing up and saying, where are the facts? What do we know? How do we know it? And what

evidence do we have to prove it? I think we as lawmakers need to step back and ask these fundamental questions wherever possible.

There seems to be a lot of political posturing both domestically and internationally. The Democrats are saying this, Republicans are saying that. Politicians, diplomats, and yes, even the journalists are weighing in on who did what to whom and who benefited. That sells papers, that makes things more lively. But I think we owe it to our ideas of democratic beliefs to rise above that and follow the evidence.

One would hope that as a democratic system of justice, we would follow the facts over the conjecture when a crime is alleged. We need to do that here. We should not assume allegations are true. We should prove them true or false. We should question our sources, our evidence and our conclusions. Trust me, the politics will take care of themselves.

So I applaud the leadership of this committee for holding this hearing. I also applaud the Secretary General of the United Nations for convening a panel to investigate these allegations. Where the investigation is going to go with all the other countries and issues there, who knows. But at least he took the first step.

Beyond the finger pointing, this is an opportunity to examine what has happened, to correct it where we must, and to make sure that if wrongdoings have occurred, that they do not happen again. That is my hope and that should be our goal. Thank you, Mr. Chairman.

[The prepared statement of Hon. C.A. Dutch Ruppersberger follows:]

Congressman C.A. Dutch Ruppersberger
*Subcommittee on National Security, Emerging Threats,
and International Relations Hearing*
The Iraq Oil-for-Food Program: Starving for Accountability
Opening Remarks
04.21.04

Thank you Chairman Shays and Ranking Member Kucinich. I think we can all agree this is an extremely important subject. We are talking about the operational process that involved substantially easing human suffering in Iraq throughout the 1990s and ending last spring. I don't think we should lose sight of that noble mission and the people who worked hard to help Iraqi civilians.

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So I applaud the leadership of this committee for holding this hearing. I know there are others throughout Congress and our colleagues should be looking at this issue. I also applaud the Secretary General of the United Nations for convening a panel to investigate these allegations.

Beyond the finger pointing, this is an opportunity to examine what has happened, to correct it where we must, and to make sure that if wrong doings have occurred, they do not happen again. That is my hope and it should be our goal.

Thank you Mr. Chairman.

Mr. SHAYS. I thank the gentleman.

Mr. Ron Lewis, a valued member of the committee, is going to forego his statement. We thank him for being here. And we'll call now on Mr. Tierney.

Mr. TIERNEY. Mr. Chairman, I don't want to make a full statement either. I think it's important that we have this hearing. I commend you for calling it, I think it's also critical that we have this investigation done fully and transparently, and make sure that the United Nations has an independent investigation.

I would also like to associate myself with the remarks made by Mr. Waxman concerning the need for this committee to have further hearings on the current situation as it transpires. With that, I'll yield back my time.

Mr. SHAYS. I thank you very much.

At this time, the Chair would recognize the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. I also want to thank the ranking member for calling this hearing. I will also waive my rights to the full 5 minutes.

But I would note, if I could, in endorsing all the remarks made here today, also point out that in Ambassador Kennedy's written testimony that he's provided to the committee, he points out the fact that the central victims in this are the Iraqi people.

I would also note two other victims in this, one, the American taxpayer, and second, and quite importantly I believe, the United Nations. Because if the credibility of the United Nations is further damaged by the uncovering of certain facts and wrongdoing here on the part of U.N. officials during these investigations, and I understand some are ongoing even now, it may inhibit the U.N. from occupying the proper role as we move down the road, and at a point where we definitely need the good services of the United Nations.

So this is a very, very troubling development. It's one that I think has brought the leadership of the U.N. some disrepute, quite frankly. And we need to get to the bottom of this, the very bottom of this, so we can be assured that moneys sent by this country to the United Nations are used prudently and without the taint of any corruption.

Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman.

At this time, the Chair would recognize Congresswoman Watson, also Ambassador.

Ms. WATSON. Thank you, Mr. Chair, and I'll just take a few seconds. I appreciate these hearings so that we can get to the bottom details of what happened with the Oil-for-Food. I would hope, and knowing Kofi Annan and dealing with the U.N. as a former Ambassador, that we trust this man to get to the bottom of this corruption. He is a person of good intend. Those who make up the various administrative groups within the U.N. are not always monitored as closely as he would like. There is a lack of funding and for years, we did not pay our full component and therefore, personnel was not available to do the kind of monitoring that is required in this regard.

So in trying to find facts and get to the truth, I think that we can recognize and encourage Kofi Annan to be a partner in this investigation. I thank you, Mr. Chair, for calling those with information to this hearing. I'm sorry I won't be able to stay. We do have another hearing in International Relations. But I hope we have an opportunity to investigate the Oil-for-Food scandal at another time. Thank you, Mr. Chairman.

Mr. SHAYS. I thank you very much, Madam Ambassador.

At this time the Chair would recognize the presence of Mr. Ose, a member of the full committee. I would ask unanimous consent that Mr. Ose and any other member of the full committee be allowed to participate. Without objection, so ordered.

Mr. Ose, do you have a statement before we begin?

Mr. OSE. Thank you, Mr. Chairman. I am pleased to be here today. I think you have been pursuing this issue and I want to commend you for it.

I have been visited by any number of groups over the course of my career, but the ones that come to mind are the ones that come in and visit with us about bid shopping under Federal contracts. In effect, this is a very similar issue. I can't help but believe that where there is smoke, there's fire. I'm sufficiently cynical as it comes to these kinds of numbers of dollars to believe that where there's smoke, there's fire. If the U.N. will not do its job of exercising proper oversight, or if the 661 Committee will not do its job of exercising proper oversight, or if certain members of the security council will not allow such oversight to take place, then it will fall to us to exercise that oversight.

So I want to commend you on this. I do not believe this has anything to do with past difficulties of the United States making its approximately 25 percent contribution to the U.N. I think this has to do with people seeing an opportunity, potentially, to line their own pockets at our expense or at the expense of the world with the belief that there was little if any oversight taking place. So I look forward to this hearing and future hearings on the subject.

Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman.

Seeing no other members asking for recognition, I would recognize our panel and swear them in and allow them to make their statements. We have before us Ambassador Patrick Kennedy, U.S. Representative for United Nations Management and Reform, U.S. Mission to the United Nations, U.S. Department of State. We also have Ambassador Robin Raphel, Coordinator, Office of Iraq Reconstruction, U.S. Department of State. We also have present Deputy Director, Defense Contract Audit Agency, Mr. Michael Thibault, U.S. Department of Defense, as well as the Senior Advisor to the Deputy Assistant Secretary, Executive Office for Terrorist Financing and Financial Crimes, U.S. Department of Treasury, Mr. Jeff Ross.

As you know, we swear in our witnesses and I would at this time ask you to stand. Raise your right hands.

[Witnesses sworn.]

Mr. SHAYS. Note for the record our witnesses have responded in the affirmative. Before inviting you to speak in the order I recognized you, I ask unanimous consent that all members of the sub-

committee be permitted to place an opening statement into the record, and that the record remain open for 3 days for that purpose. Without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statement in the record. Without objection, so ordered.

I would just again reiterate, before calling on Ambassador Kennedy to start, that this committee has received a phone call from the Secretary General of the United Nations, who has made it very clear that he takes this issue extraordinarily seriously and in the course of announcing the investigative body that will be doing this work, said it will be backed up by a resolution from the Security Council. So I think that's important, that he would take the time to make sure our committee knew this and would take this action.

At this time, Ambassador Kennedy. What we do is, you've listened to a lot of us make statements, the least we can do is make sure we hear from you clearly. Our policy is 5 minutes, we roll over another 5 minutes, and we would like you to stop within that second, somewhere in between that second 5 minutes. Thank you. You have the floor, so to speak, Ambassador.

STATEMENTS OF PATRICK F. KENNEDY, U.S. REPRESENTATIVE FOR UNITED NATIONS MANAGEMENT AND REFORM, U.S. MISSION TO THE UNITED NATIONS, U.S. DEPARTMENT OF STATE; ROBIN L. RAPHEL, COORDINATOR, OFFICE OF IRAQ RECONSTRUCTION, U.S. DEPARTMENT OF STATE; MICHAEL J. THIBAUT, DEPUTY DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY, U.S. DEPARTMENT OF DEFENSE; AND LEE JEFFREY ROSS, JR., SENIOR ADVISOR, EXECUTIVE OFFICE FOR TERRORIST FINANCING AND FINANCIAL CRIMES, U.S. DEPARTMENT OF THE TREASURY

Ambassador KENNEDY. Thank you, Mr. Chairman, distinguished members of the committee. I appreciate your permitting my longer written statement to be entered into the record, and I just have a few brief oral remarks.

I welcome the opportunity to appear here today before you to discuss the U.N. Oil-for-Food program, and recent allegations of possible mismanagement and abuse involving the program. At the outset, I want to make perfectly clear that we share your concerns. And I want to underscore that we are fully committed to ensuring that all allegations are comprehensively investigated and addressed.

Following the recent allegations of corruption by U.N. officials, we were immediately instructed by Secretary Powell to convey our concerns to you and Secretary General Annan. Ambassador Negroponte had discussed this on several occasions with the Secretary General, who has on his own initiative launched an investigation that is intended to be independent, transparent and comprehensive.

We joined our fellow Security Council members in a March 31 letter from the Council President to the Secretary General, welcoming this expanded investigation and pledging our full cooperation. Today, the Secretary General is expected to announce, as you have said, Mr. Chairman, the appointment of a three member independ-

ent inquiry panel. The panel will include Richard Goldstone, the former chief prosecutor for the U.N. International Criminal Tribunals for the former Yugoslavia and Mark Pike, a professor of criminal law at Basle University in Switzerland. It will be headed by Paul Volcker, the former chairman of the Federal Reserve Board.

The Security Council has also agreed to adopt a council resolution today welcoming the appointment of the panel and calling on member states to cooperate fully with that investigation. The council is meeting this morning to adopt this resolution.

Mr. Chairman, we must not forget, allegations aside, it is the Iraqi people who would have been most hurt by any wrongdoing. It is for them most of all that we must take this responsibility very seriously, and we have urged all U.N. member states to do the same. The Oil-for-Food program was created to alleviate the hardships faced by the Iraqi people, hardships caused by Saddam Hussein's regime's refusal to comply with the obligations and resulting comprehensive, multi-lateral sanctions regime imposed by the Security Council on Iraq following the invasion of Kuwait in August 1990.

The Oil-for-Food program allowed for the import of humanitarian goods using the proceeds from authorized Iraqi oil sales while maintaining sanctions and imports of other than foods and medicines. It represented the largest humanitarian relief operation ever launched by the international community. Its authorizing act did not mandate the Oil-for-Food program to serve as an enforcement mechanism to prevent Saddam Hussein from acting outside the program to evade sanctions through corruption, smuggling and collusion with those member states and companies willing to support his illegal activities. It was, in the end, the responsibility of each member state and their national companies to ensure full compliance with the sanctions imposed by the Security Council on the Saddam Hussein regime under Resolution 661, and subsequent council resolutions.

The United States supported the program's general objective of creating a system to address the humanitarian needs of the Iraqi civilian population, while maintaining strict sanctions enforcement on items that Saddam Hussein could use to re-arm or reconstitute his WMD program. We believe the system the Council devised largely met those objectives. However, the rules and procedures governing implementation of the program were the product of negotiation among the 15 members of Security Council and between the U.N. and the former Iraqi regime.

The United States was able to set basic parameters and monitor the functioning of the program through our participation in Security Council discussions and as a member of the Iraqi sanctions committee, also known as the 661 committee, named for the Security Council resolution that created it. However, we were not in a position to exercise exclusive control over the process as the committee made decisions only through consensus. Although the flow of humanitarian and civilian goods to Iraq was a matter of strong interest to the U.S. Government, an even greater goal throughout the period of sanctions was to ensure that no items were imported which could in any way contribute to Iraq's WMD programs or ca-

pabilities. At the U.S. mission, we concentrated our efforts on this aspect of the sanctions.

It is important to note that no U.S. Government funds, including those that might have been drawn from U.N. assessments, were involved in the establishment and functioning of the program. With the exception of voluntary funds provided by the United States for the U.N. Guards Contingency program in Northern Iraq, whose task was to protect humanitarian personnel working there, all expenses associated with the management of the program were drawn from Iraqi oil revenue that was deposited into a U.N. escrow account established in 1995 under Resolution 986.

Recent press reports allege there was corruption and abuse in the implementation of the program. These allegations, as was pointed out by a member of your panel, fell into four categories: direct oil smuggling by the former Iraqi regime; manipulation of pricing on Iraqi oil exports; kickbacks on OFF humanitarian contracts; and possible abuse by U.N. personnel. At the heart of this were the determined efforts by Saddam Hussein to obtain funds illicitly and hide his sanctions-busting activities.

In the written statement that I have submitted for the record, I have provided greater detail about what we know about the allegations in each category. Where we could identify abuse and fraud in the implementation of the Oil-for-Food program, we and the United Kingdom endeavored to stop that, including through bilateral diplomacy and special briefings to the Security Council and the 661 Committee of the ways in which we observed the Saddam Hussein regime diverting funds from the program, smuggling, and generally violating Council resolutions.

What we did not have before the fall of the Saddam regime was documentation and witnesses who were willing to step forward to provide direct evidence of corruption. Documentation is now becoming available in the wake of Saddam Hussein's regime's demise. Witnesses are now coming forward who may be able to shed more light on how Saddam Hussein and his supporters evaded sanctions, and on instances of corruption that may have existed in implementing the Oil-for-Food program. The independent, high level inquiry initiated by the Secretary General will shortly get underway. The inquiry will investigate allegations of fraud and corruption in the administration and management of the Oil-for-Food program, including those against U.N. personnel, contractors and entities that entered into contract with the U.N. or with Iraq under the program.

We and other Security Council members have welcomed the Secretary General's initiative and called for international cooperation. Both the summary and the final report of the findings of this panel will be made public. We believe that this inquiry can serve as an important vehicle in addressing the various allegations. In Baghdad, the Coalition Provisional Authority is also assisting the Iraqi Board of Supreme Audit to launch an investigation into the allegations of corruption regarding the Oil-for-Food program. CPA Administrator Bremer issued a directive to the CPA and all Iraqi ministries in early March, instructing ministry officials to identify and secure relevant OFF documents. Representatives of the Iraqi Board

of Supreme Audit have met with the CPA and Iraqi ministry officials to ensure cooperation and transparency in this process.

We hope that the inquiries now being launched will identify those who conspired with the Hussein regime and perhaps assist in recouping lost funds for the Iraqi people. Mr. Chairman, again, I thank you for the opportunity to provide this information on the Oil-for-Food program. You have my fullest support and that of my colleagues in your effort to identify and determine the extent and involvement of wrongdoing associated with the program.

Thank you, Mr. Chairman.

[The prepared statement of Ambassador Kennedy follows:]

**Statement by Ambassador Patrick F. Kennedy
United States Representative for United Nations Management and Reform
on the UN Oil-For-Food Program
before the House Committee on Government Reform Subcommittee on
National Security, Emerging Threats, and International Relations
April 21, 2004**

Mr. Chairman, distinguished members of the Committee,

I welcome and thank you for the opportunity to appear before you today to discuss the UN Oil-for-Food (OFF) program and recent allegations of possible mismanagement and abuse with regard to the implementation of that program.

At the outset, I want to make perfectly clear that we appreciate and share your concerns. We will do what we can to ensure that all such allegations are investigated and addressed, most importantly for the benefit of the Iraqi people. I can assure you of Secretary Powell's strong personal interest and concern regarding this issue. Following recent specific allegations of corruption by UN officials, we were immediately instructed by Secretary Powell to convey our concerns to UN Secretary-General Annan. The Secretary-General has on his own initiative launched an investigation that is intended to be independent, transparent and comprehensive. As you know, we joined our fellow Security Council members on March 31 in welcoming this expanded investigation and pledging our full cooperation through a formal letter to the Secretary-General.

We must not forget that, corporate and official allegations aside, it is the Iraqi people who would have been most hurt by any wrongdoing. It is for them most of all that we must take this responsibility very seriously, and we will urge all UN member states to do the same so any and all wrongdoing is uncovered and addressed.

Mr. Chairman,

I think it may be helpful to you to have some background on the Oil-for-Food program and the Iraq sanctions regime.

The United Nations Oil-for-Food (OFF) program was authorized by Security Council Resolution 986 in April 1995 and became operational in December 1996.

The Security Council had imposed comprehensive multilateral sanctions on Iraq in August 1990 (UNSCR 661) to convince Saddam Hussein to withdraw from Kuwait without the use of force. Sanctions on Iraq continued after the Gulf War and were thought by many in the international community to impose extreme hardship on the Iraqi people. The Oil-for-Food program was created to alleviate those hardships. It allowed the import of humanitarian goods using the proceeds from controlled Iraqi oil sales while maintaining sanctions on imports other than food and medicine. The objective was to continue constraining Saddam Hussein's ability to use oil revenue to build a military arsenal.

The Oil-for-Food program represented the largest humanitarian relief operation ever launched by the international community. Iraqi oil exports totaled \$64.2 billion over the life of the program. The proceeds funded \$46 billion worth of humanitarian contracts for Iraq, and \$16 billion for the UN Compensation Commission (UNCC), as well as administrative costs for the Office of the Iraq Program (OIP), the UN Monitoring, Verification, and Inspection Commission (UNMOVIC), and the UN Special Commission (UNSCOM) totaling \$2.65 billion. Of the \$46 billion funding for humanitarian contracts, more than \$31 billion in humanitarian supplies was delivered to Iraq from March 1997 until November 21, 2003. An additional \$8.2 billion in prioritized supplies ordered under the program is scheduled to arrive in the coming months. To date, \$8.1 billion in surplus funds have been transferred from the UN escrow account to the Development Fund for Iraq (DFI), monies that have been extremely useful in the implementation of various programs for the people of Iraq.

The United States Government supported the program's general objective of creating a system to address the humanitarian needs of the Iraqi civilian population while maintaining strict sanctions enforcement of items that Saddam Hussein could use to re-arm or reconstitute his WMD program. We believe the system the Council devised by and large met those objectives. However, the rules and procedures governing implementation of the program were the product of negotiation among the fifteen members of the Security Council and between the UN and the former Iraqi regime. The United States was able to set basic parameters and monitor the functioning of the program through our participation in Security Council discussions and as a member of the Iraq Sanctions Committee, also known as the "661 Committee," named for the Security Council resolution that created it. However, we were not in a position to exercise exclusive control over the process. Although the flow of humanitarian and civilian goods to Iraq was a matter of strong interest to the U.S. government, it should be emphasized that an even greater preoccupation throughout the period of sanctions was to

ensure that no items be permitted for import which could in any way contribute to Iraq's WMD programs or capabilities. Thus, at USUN we concentrated our efforts on this aspect of the sanctions.

It is important to note that no U.S. Government funds, including those that might have been drawn from UN assessments, were involved in the establishment and functioning of the program. With the exception of voluntary funds provided by the United States for the UN Guards Contingency in Northern Iraq (UNGCI), whose task was to protect humanitarian personnel working there, all expenses associated with management and implementation of the program were drawn from Iraqi oil revenue that was deposited into a UN escrow account established under Resolution 986 (1995).

The sanctions regime and the OFF program constituted the most comprehensive and intrusive regime ever imposed by the Security Council, short of a complete embargo. At the insistence of many other Security Council members, the program permitted the Government of Iraq to control the sale of oil and the selection and negotiation of contracts with suppliers of humanitarian items destined for Iraq. The United Nations and its UN Office of the Iraq Program (OIP), which managed implementation of the program, were not a party to the contracts. The contracts were concluded exclusively between the Iraqi government and individual suppliers. These Council members insisted that Iraq's national sovereignty and territorial integrity, and thus the right to execute contracts, be enshrined in the language of Resolution 986 (1995). The 661 Committee reviewed the contracts that had been concluded between the Iraqi government and contractors to ensure that no items could be used for military purposes.

Much of what the U.S. Government could and could not achieve with regard to monitoring the program and implementation of the sanctions was directly related to the political situation surrounding the contentious issue of Iraq in the Security Council and in the 661 Committee. U.S. efforts to keep the comprehensive sanctions regime in place repeatedly were challenged by Council members who complained about the humanitarian impact of sanctions on the Iraqi people, and whose national firms would derive economic benefit from the lifting of sanctions. Indeed, starting in the mid-'90s and continuing into 2001, these pressures to lift sanctions grew.

Recent press reports allege there was corruption and abuse in the implementation of the program, allegations which fall into four general categories:

- direct oil smuggling by the former Iraqi regime;
- manipulation of pricing on Iraqi oil exports;
- kickbacks on OFF humanitarian contracts; and
- possible abuse by UN personnel.

At the heart of this were the determined efforts by Saddam Hussein to obtain funds illicitly and his repeated efforts to hide sanctions-busting activities.

Mr. Chairman,

We know there was abuse and fraud in the implementation of the OFF program. Where we could identify it, we and our UK partners stopped it. What we did not have before the fall of Saddam's regime was documentation and witnesses who were willing to step forward to provide evidence of corruption. Documentation is now becoming available in the wake of the Saddam Hussein regime's demise, and witnesses are also now coming forward who may be able to shed light more precisely on how the previous Government of Iraq and its supporters evaded sanctions, and on instances of corruption that may have existed in implementing the Oil-for-Food program.

The Secretary-General of the United Nations has initiated the process for conducting an independent high-level inquiry into the allegations of corruption and abuse in the administration and management of the OFF program. This inquiry will look into the allegations of fraud and corruption by UN personnel, contractors, and entities that entered into contracts with the UN or with Iraq under the program. Separately, the Iraqi Board of Supreme Audit, with assistance from the CPA, has launched its own investigation in Baghdad into allegations of misconduct concerning the OFF program. The United States will fully support these efforts.

Oil smuggling

It was commonly understood that the Saddam regime engaged in multiple, complex efforts to evade the sanctions imposed by the Security Council. In fact, the Saddam Government orchestrated the largest share of non-compliance with the Council's demands through outright oil smuggling and the procurement of unauthorized goods completely outside the context of the OFF program.

While it is assumed that Saddam engaged in oil smuggling throughout the life of the sanctions regime on Iraq, reports suggest that oil smuggling efforts intensified from 2000 onward, reaching a peak annual level of \$2 billion in 2002, mostly through the Persian Gulf and Syria. While it is not possible to confirm the General

Accounting Office's March 2004 estimate of \$5.7 billion in illegal oil smuggling revenue for the period 1997 through 2002, this figure appears realistic given the magnitude of the problem in 2002 alone. Saddam and his fellow ruling authorities then used these funds to acquire desired items in circumvention of Council oversight and review.

The Multinational Maritime Interception Force (MIF) operating in the Persian Gulf enjoyed success from 2000-2001 in significantly reducing the number of small vessels operating out of Shatt al-Arab that were smuggling Iraqi oil along Iran's southern coast. An equally noteworthy source of oil smuggling prior to the 2003 Iraq war was the illegal flow of oil through Iraq's pipeline with Syria, which restarted operations in late November 2000. The United States, in coordination with the UK, repeatedly raised concerns over such blatant non-compliance, only to be told by Syrian representatives that the Iraq-Syria pipeline was "being tested," but was not operational.

Oil surcharge

Evidence that the Iraqis were attempting to impose excessive price premiums on oil exports to exploit differences between oil prices approved by the 661 Committee and subsequent fluctuations in global oil prices surfaced as early as the fall of 2000, when the UN oil overseers informed the 661 Committee of instances in which the GOI was requesting imposition of an additional fee on the sale of Iraqi crude.

Members of the 661 Committee, led by the U.S. and UK, agreed to a statement issued by the Committee Chairman on December 15, 2000, making clear that additional fees above the oil selling price approved by the 661 Committee were not acceptable, and that all revenue derived from the sale of Iraqi oil was to be deposited in the authorized UN escrow account. Despite circulation of this message to all companies approved to lift Iraqi oil, evidence of the illicit surcharge continued through the spring of 2001. In April 2001 the United States and the United Kingdom first blocked 661 Committee approval of the price of Iraqi oil. The U.S., working in close coordination with the UK delegation in New York, raised the issue of excessive oil price premiums in a series of more than 40 formal and informal 661 Committee and Security Council meetings. An early instance was in December 2000. The U.S. and UK initially sought in April 2001 to limit the time that oil prices approved by the Committee at the beginning of each month would remain valid, from 30 days, which had been the practice up to that point, to 15 days. The U.S. and UK also requested weekly updates from the UN oil

overseers on the status of oil price premiums, which revealed that the Iraqis continued to seek imposition of additional, unauthorized fees on oil shipments ranging from 5 cents to 50 cents per barrel. We were unable to secure agreement to deal with this ploy.

Bolstered by such reports from the UN oil overseers, U.S. and UK experts made creative use of the consensus rule governing decisions in the 661 Committee, and began to withhold support until the end of each month for oil prices submitted by the Iraqi State Oil Marketing Organization (SOMO) prior to the beginning of that month. This retroactive price analysis permitted U.S. and UK experts the opportunity to assess oil prices sought by SOMO compared to the actual market price of comparable crude oils to determine if SOMO's prices reflected "fair market value" -- a requirement under Resolution 986 (1995). Beginning in October 2001 the U.S. and UK regularly employed the retroactive oil pricing mechanism to evaluate SOMO's suggested prices until the suspension of the OFF program in March 2003.

Certain 661 Committee members strongly resisted U.S. and UK efforts to deviate from the previously standard 30-day, pro-active oil pricing scheme. Some Council members alleged that imposition of retroactive oil pricing caused a decline in the total volume of Iraqi crude oil exports, thereby reducing available funds to finance procurement of additional humanitarian supplies to benefit the Iraqi civilian population. However, the retroactive oil pricing we imposed had its intended effect: by the spring of 2002, the UN oil overseers reported that oil price premiums had been reduced from as much as 50 cents per barrel to an accepted industry variation of 3 to 5 cents per barrel. This significant reduction in price premiums made it economically unfeasible for oil traders to pay a kickback and still make a profit. Thus for at least the final 18 months of the program we were able to save the people of Iraq significant sums of money in illegal oil surcharges.

Kickbacks on humanitarian contracts

Allegations of kickbacks related to OFF humanitarian contracts began to surface in late 2000. No documentary evidence was produced at the time to support these allegations.

U.S. and UK experts raised this issue with 661 Committee experts and OIP representatives during late 2000 and early 2001 and formally submitted proposals to address this issue during a 661 Committee meeting in March 2001. Our

proposals received no support: members claimed that absent receipt of evidence indicating that such kickbacks existed, no action could be taken.

In a few instances a supplier accidentally left surcharge language in a contract, and in every such case we blocked the contract. As a general rule, though we often suspected contract overpricing during the latter years of the program, we were hampered by the lack of substantiated evidence -- evidence that is now becoming available and which we are intent on pursuing.

The most important measures taken to address this issue occurred after the U.S., through CPA, was informed of the kickback by Iraqi ministry representatives in Baghdad. With the fall of the Hussein regime in the spring of 2003, and with the subsequent authorities granted to CPA under UNSC Resolution 1483, CPA officials (including sanctions experts from USUN staff), in coordination with UN officials and the Iraqis, took steps to eliminate surcharges in existing Oil-for-Food contracts meant evidently for kickbacks.

The CPA and the Iraqis not only identified priority contracts in the OFF pipeline, but also requested the UN agencies to negotiate a reduction in the overall contract value at an average rate of 10 percent for those contracts that the Iraqis identified as containing the kickback. It is estimated that this process saved the Iraqis approximately \$600 million -- money that is being returned to the Development Fund for Iraq.

The efforts by the CPA and the Iraqis to uncover the scale and intricacy of the hidden network created by Saddam Hussein to siphon funds from OFF have produced the first public acknowledgement by Iraqis that a systemic kickback system for OFF contracts actually existed. As more information comes to light and is evaluated, especially documentary evidence, we hope that the true scope and extent of this system and associated corruption and wrongdoing can be established.

Allegations against UN personnel

During the life of the OFF program, to the best of my knowledge the United States Government was not aware of allegations of abuse, fraud, or corruption against those UN officials responsible for management and implementation of OFF. It was with the appearance of press reports in January 2004 about abuse of the OFF program that allegations of corruption by UN Office of the Iraq Program (OIP) Executive Director Benon Sevan and possibly other UN officials were made. Thereafter the UN OIOS -- the UN's Inspector general -- approached us at USUN

to request any substantiating information or evidence from the CPA and the Iraq Governing Council.

The Independent Inquiry initiated by the Secretary-General is being complemented by an Iraqi Board of Supreme Audit investigation. The provision of documentation and the forthrightness of Iraqis who previously managed the Oil-for-Food matters will be essential to determine the full scope of the problem. We have informed the Secretary-General that the United States Government endorses and fully supports these investigations and will assist in whatever way we can.

U.S. initiatives: special briefings

In addition to efforts to eliminate or counter surcharges, kickbacks, smuggling or sanctions-busting activities, the United States also took initiatives to provide members of the 661 Committee and the Council information and evidence of violations by the former regime through various briefings. To counter charges that the U.S. was responsible for the continued suffering of Iraqi children, the United States briefed Council members in 2000 on the various ways the Saddam regime was diverting funds to benefit Iraq's elite, including through the use of diverted funds to build and furnish Saddam's palaces. The U.S. again briefed Council ambassadors in the spring of 2002 on Saddam Hussein's non-compliance with UN Security Council resolutions, and Saddam's attempts to procure WMD-related materials. In March 2002 a U.S. interagency team briefed the 661 Committee on the former regime's diversion of trucks.

Starting in 1996, U.S. Commanders of the Multinational Maritime Interception Force (MIF) in the Gulf briefed the Committee each year on the MIF's activities in combating the illegal smuggling of Iraqi crude. Most recently, MIF Commanders Vice Admiral Moore in 2001 and Vice Admiral Keating in 2002 briefed the 661 Committee and highlighted the continued attempts by Saddam Hussein to circumvent sanctions by illegally exporting oil and illicitly importing materials into Iraq through the unauthorized use of ferry services from neighboring states.

Status of investigations

The independent high-level inquiry initiated by the Secretary-General will shortly get underway. The Terms of Reference have been written and provided to Security Council members for their information. The inquiry is designed to investigate allegations of fraud and corruption in the administration and management of the

OFF program, including those against UN personnel, contractors and entities that entered into contracts with the UN or with Iraq under the program.

We and other Security Council members have welcomed the Secretary-General's initiative, and called for international cooperation. The formal appointment of the independent inquiry Panel will be a welcomed first step in addressing the allegations against the UN and the OFF program. The U.S. and CPA have pledged their support and assistance for the UN investigation. Members of the Council have requested they be provided original copies of the complete final report. Both the summary and the final report on the findings of this Panel will be made public.

In Baghdad, the CPA is assisting the Iraqi Board of Supreme Audit to launch a Baghdad-based investigation into the allegations of corruption regarding OFF. CPA Administrator Bremer issued a directive to the CPA and all Iraqi Ministries in early March instructing all Ministry officials to identify and secure relevant OFF documents. Representatives of the Iraqi Board of Supreme Audit have met with CPA and Iraqi Ministry officials to ensure cooperation and transparency in this process.

Mr. Chairman,

The UN Oil-for-Food program was established to address the humanitarian needs of the people of Iraq in the face of callous disregard by Saddam Hussein for their welfare. Failure to do so would have prompted an accelerated deterioration in international support for the sanctions regime. We met with fairly good success in limiting Saddam's access to prohibited items under the program, and in exercising control over most of the revenue derived from the export of Iraqi oil. However, this program was abused by Saddam Hussein in nefarious and clever ways. The inquiries now being launched will, we hope, identify those who may have conspired with him, and perhaps assist in recouping lost funds for the Iraqi people.

Mr. Chairman, again I thank you for the opportunity to provide this information on the Oil-for-Food program, and would close by emphasizing that you have my fullest support and that of my staff in your efforts to determine the extent and involvement of wrongdoing associated with the program.

Mr. SHAYS. Thank you, Ambassador Kennedy.

Ambassador Raphael.

Ambassador RAPHEL. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the committee, I want to thank you for the opportunity to appear before you here this morning to share my experience with the U.N. Oil-for-Food program in Iraq. I was the CPA's senior advisor to the Ministry of Trade in Baghdad from April through August of last year, which gave me an on the ground perspective of the program during that period.

The Trade Ministry was responsible for Iraq's public distribution system, which rationed basic goods, including food, made scarce by international sanctions after the first Gulf war. After 1996, the public distribution system was supplied largely by OFF procured commodities. The public distribution system used a Ministry of Trade data base which was designed to list every family in Iraq. Families would pick up their rations each month from more than 45,000 neighborhood food agents. Trade Ministry trucks moved the commodities from ports of entry to warehouses across Iraq.

About 60 percent of the population was totally dependent upon these food rations. Most Iraqis considered them an entitlement. When the Coalition arrived in Baghdad in April, one of our goals was to ensure that this ration system was re-established, to ensure that people had enough to eat, and to provide a sense of stability and continuity to the Iraqi people. The U.N.'s World Food Program was already hard at work, ensuring food was delivered and distributed throughout Iraq.

Between April and October of last year, the World Food Program delivered more than 2 million tons of food, the largest amount ever delivered anywhere so quickly. Through May, my colleagues and I concentrated on the infrastructure supporting the public distribution system. We reconstituted the Ministry of Trade leadership, made emergency salary payments and cataloged looted warehouses and silos. We also planned for local crop purchases, facility security and ministry building repairs, and we forged new relationships between Baghdad and the offices of the Ministry of Trade so that there would be communication and so that movement of food items among various warehouses throughout the country could be facilitated.

In late May, U.N. Security Council Resolution 1483 gave the Secretary General the authority to prioritize OFF contracts, in coordination with the CPA and the interim Iraqi administration, according to the needs of the Iraqi people. This precipitated CPA involvement with the Oil-for-Food contracts. In Baghdad, we worked out a tripartite process with the U.N. Office of the Humanitarian Coordinator for Iraq, UNOHCI, visiting U.N. office of Iraqi program staff, and Iraqi ministry officials. In this process, we would jointly decide which of the contracts were of "relative utility" as required by U.N. Security Council Resolution 1483.

The key criterion was whether the particular goods were needed to meet the humanitarian and reconstruction needs of the Iraqi people. The suppliers' ability to deliver on a timely basis and the reasonableness of price were also considered. This work was managed by the OFF team in CPA. Eligible contracts numbered rough-

ly 5,000 approved and funded contracts worth over \$8 billion. The CPA decided early on that it would not agree to the prioritization of contracts from companies about which there were outstanding questions regarding their relationship to the former regime.

Early in the process, we learned that several Iraqi ministries had detailed knowledge of the so-called kickback system, under which suppliers had agreed to inflated prices and agreed to pay a percentage of the inflated contract value into regime officials' foreign bank accounts. The CPA was determined to avoid perpetuating any corruption related to the prioritized contracts. At the same time, however, we believed that the Iraqis were best placed to know which of the Oil-for-Food goods were really needed for their reconstruction, including oil, electrical and public works infrastructure reconstruction.

Since many key contracts included the extra fees, or kickbacks, it was agreed that each appropriate U.N. agency would negotiate the removal of these fees with the suppliers. Each ministry would identify the amount of any fee or kickback associated with the contract. The blanket instruction was that in the absence of specific information, the level of the fee was assumed to be 10 percent of the total contract value for all of the contract from June 2000 onward. That was the date from which we had been told that the former regime officials really pushed to get these kickback fees.

Once this tripartite review process was complete, a schedule of contracts signed by the appropriate Iraqi ministry officials was submitted to the OFF team for final CPA review. The list of contracts was then signed off on by the appropriate CPA ministry senior advisor and the information was sent on to UNOHCI for signature, and forwarded to the Office of Iraqi Programs in New York.

The Office of Iraqi Programs would notify suppliers and send the information to the appropriate U.N. agency with instructions to that agency to renegotiate delivery costs, delivery location and the removal of any extra fees. These renegotiations were presided over by the U.N. agency. They did not involve Iraqi or CPA officials. U.N. agency officials made no formal reference to allegations of corruption or kickbacks when they were actually talking to the suppliers. This was to avoid prejudicing any possible future legal action.

The prioritizing and renegotiation of contracts turned out to be an enormous task, complicated by the tragic August 19 bombing of U.N. headquarters in Baghdad. By late 2003, we began to worry about the food pipeline. As a result, this past January, the CPA, Iraqi Trade Ministry and the World Food Program agreed that the World Food Program would step in and procure and transport to warehouses inside Iraq more than \$900 million worth of food, to ensure that food pipeline gaps would be filled and a buffer stock in food commodities would begin to be built. The stocks are now rising, and the Ministry of Trade has taken over all of its own procurement.

Mr. Chairman, in closing, I would like to thank you and all members of this committee for your continuing support for foreign service officers, especially in Iraq. Mr. Chairman, I know that you were recently in Iraq personally. You talked to some of my colleagues there. And I want you to know it makes a great deal of difference to people who are working 16 to 18 hours a day in dangerous condi-

tions to know that you all are interested in what they do and that you appreciate their service.

Thank you very much.

[The prepared statement of Ambassador Raphel follows:]

**Statement by
Ambassador Robin L. Raphel,
Iraq Reconstruction Coordinator,
U.S. Department of State,
on the UN Oil-For-Food Program
for the House Committee on Government Reform Subcommittee on
National Security, Emerging Threats, and International Relations
April 21, 2004**

Mr. Chairman and distinguished members of the Committee,

Thank you for the opportunity to appear before you today to share my experience with the UN Oil For Food (OFF) program in Baghdad. I was the Coalition Provisional Authority's (CPA) Senior Advisor to the Ministry of Trade (MoT) in Baghdad from April through mid-August last year.

The Ministry of Trade was responsible for Iraq's Public Distribution System (PDS), a system developed after the first Gulf War, essentially to ration the scarcity of basic goods resulting from international sanctions and ensure that all Iraqis had a minimum amount of food to eat. After the OFF program was established in 1995 under Security Council Resolution 986 and implemented in 1996, the PDS system was supplied largely by commodities procured under OFF. The PDS system was based on a computerized database maintained by the Ministry of Trade that was designed to list every family in Iraq. Each family had a ration card that they would use to pick up their rations each month from one of the roughly 45,000 food agents based in neighborhood shops. The food agents collected these commodities from a series of Trade Ministry warehouses distributed throughout the governorates. A fleet of Trade Ministry trucks moved the commodities from the ports of entry to these warehouses.

It was estimated that before the 2003 war, roughly 60 percent of the Iraqi population was totally dependent upon the ration basket. Others would use it to supplement other food sources or to pass on to poorer relatives. In any case, most Iraqis considered their rations a basic entitlement. At least 90 percent of Iraqis picked up their rations each month. Maintaining the ration system was important to the sense of stability and continuity the Coalition

was trying to provide in the immediate aftermath of hostilities. While the MoT ran the PDS, the UN's World Food Program (WFP) was responsible for monitoring the arrival and distribution of OFF food shipments to ensure they were fairly distributed and not diverted.

By the time the coalition arrived in Baghdad, the UN had been authorized by the Security Council initially under UNSC Resolution 986, and modified under UNSC Resolution 1472 (and later extended under UNSC Resolution 1476), to oversee the procurement of new foodstuffs and medicines on behalf of the government of Iraq, a function previously managed by the individual Iraqi ministries. These ministries could no longer enter into new contracts under the program. UN agencies were also authorized to decide which existing contracts for food and medicine should be prioritized and implemented.

The WFP began an Emergency Operation on April 1, 2003, issuing a multilateral appeal to donors, and managing the logistics of delivering this food to warehouses in Iraq. At the same time, WFP was given responsibility for implementing OFF food contracts and managing the movement of this food into Iraq. Under these combined operations, the WFP delivered over two million tons of food between April 1 and the end of the Emergency Operation in October 2003. It was the largest amount of food aid ever delivered in a single WFP program over such a short a period of time.

In January 2004, the CPA, Iraqi Ministry of Trade, and WFP agreed that WFP would procure and transport to Iraqi warehouses more than \$900 million in food items for the PDS using Iraqi money from the Development Fund for Iraq (DFI). This was necessary to help ensure that food pipeline gaps were filled and a buffer stock began to be built. The MoT is now poised to take over all future procurement for the PDS.

During the period before the passage of UNSC Resolution 1483 on May 22, 2003, which provided for the termination of the OFF program and the transition of any remaining activities to CPA, my colleagues and I concentrated on other matters such as reconstituting Ministry of Trade leadership, providing emergency salary payments, determining the status of warehouses and silos--many of which had been looted--and planning for security for these facilities, repairing ministry facilities, sorting out relationships between Baghdad and MoT offices in the governorates which

were under new management since senior Ba'athist officials had disappeared, developing a budget, and purchasing the local wheat crop.

Once UNSC Resolution 1483 had given the Secretary General the authority to prioritize contracts, in accordance with the needs of the Iraqi people, in coordination with the CPA and the Interim Iraqi administration, the UN Office of Iraq Programs (OIP) staff came to Iraq to work out the procedures for this prioritization process. A tripartite process was agreed to, under which the relevant UN agency, the CPA ministry advisor, and Iraqi ministry officials would jointly decide which contracts were of "relative utility."

By June 2003, we had learned from Iraqi officials that several of the ministries had records concerning the "kickback" system under Saddam Hussein's regime, under which many suppliers had agreed to inflated prices and to pay a certain percentage of the inflated contract value into foreign bank accounts of regime officials. Some ministry personnel came forward to explain in detail various aspects of the system. While the CPA was determined to avoid perpetuating any corruption related to these contracts wherever possible, the UN and CPA believed the Iraqis were best placed to determine what OFF goods they needed to rebuild their country-- including its oil, electrical, and public works infrastructure. Many of the contracts they selected included "kickbacks." It was agreed that the best way to deal with these "kickbacks" in the prioritized contracts was for the responsible UN agency to negotiate the removal of the "kickback."

In early June 2003, the CPA began to work with the UN agencies and Iraqi ministries on the OFF contracts. This work was managed by the CPA's advisory "OFF Team" working with the Ministry of Trade, and coordinated with OIP and the UN Office of the Humanitarian Coordinator for Iraq (UNOHCI). The general procedures governing the process are described below.

Eligible contracts were those that had been approved and funded by OIP prior to April 14, 2003, when OIP declared a pause in processing of contracts because of concerns about future oil revenues. This comprised roughly 5,000 contracts worth over \$8 billion. (An additional \$1 billion worth of funded contracts had already been prioritized for emergency distribution by UN relief agencies under UNSC Resolution 1472.) Contracts which had been registered with OIP but not approved, or which had not yet

been funded, were generally not considered eligible at that time. [Note: A few unfunded contracts for very urgent items such as food, emergency vehicles and fertilizer were later prioritized.] CPA also took the decision that it would not agree to the prioritization of contracts from entities about which there were outstanding questions concerning their relationship to the former regime. Action on contracts not considered eligible, or on contracts determined to be of questionable utility, was to be postponed until an internationally recognized, representative government of Iraq was in a position to make its own determination as to whether such contracts should be fulfilled.

By late June 2003, the tripartite review process began to gather momentum. Officials from the relevant Iraqi ministry, the CPA ministry advisors and the relevant UN agency sat together to examine the contracts in order to determine relative utility. This ensured that the historical knowledge of the Iraqis would be captured in the process, and that the UN and CPA would be a party to all decisions. The key criterion was whether the particular goods were needed to meet the humanitarian and reconstruction needs of the Iraqi people. The supplier's ability to deliver on a timely basis, and overall reasonableness of price were also considered. (Note: By this time, the Defense Contract Management Agency's pricing study was underway. Early indications of persistent overpricing were consistent with what we had learned about the "kickback" system, and with our decision to have the "kickbacks re-negotiated out of the prioritized contracts.) Each contract was assigned a priority of one through four, with one being the most urgent, and four indicating that a contract was of no relative utility.

Each ministry was responsible for identifying the amount of any extra fee or "kickback" associated with the contract. We were told that the regime first began to insist on "kickbacks" beginning with phase 8 of OFF in June 2000. Therefore, in our review of contracts, the blanket instruction was that, in the absence of specific information, the level of the fee was 10 percent of the contract value for all contracts in and after Phase 8. In some cases ministries had more specific information as to the exact level of the fee, or that there was no fee assessed. As further information becomes available as to the specific level of these "kickback" fees, CPA is contacting suppliers to negotiate further price reductions.

Weekly meetings of these tripartite groups were established (many ministries met more frequently), with progress reported at a separate weekly meeting co-chaired by UNOHCI and CPA. These meetings continued from July 2003 until the UN bombing on August 19, 2003, after which all UN staff vacated Baghdad. After the bombing, CPA and Iraqi ministries continued the prioritization with deferred UN agency input via email or telephone, though some ministries made periodic trips to Amman, Jordan, to meet with their UN counterparts to obtain their direct input into the process.

Once the tripartite review was complete, a schedule of contracts signed by the appropriate Iraqi ministry official was submitted to the OFF Team for final CPA review. Once the OFF team had determined that each contract had been assigned a priority, the percentage "kickback" fee to be removed, and the delivery date and delivery location, the list of contracts was signed off by the appropriate CPA ministry Senior Advisor. This information was then faxed and emailed to UNOHCI, who would countersign the document and send it to OIP.

Once OIP received the document, they would notify suppliers by posting those contracts deemed to have relative utility on the OP website. OIP would also send the contract information to the appropriate UN agency, with instructions to renegotiate the following terms: delivery costs, delivery location and removal of any "extra fees." These renegotiations were presided over by the UN agencies and did not involve the Iraqis or the CPA ministries. We were told by UNOHCI officials that in their dealings with suppliers, UN agencies made no formal reference to allegations of corruption or improprieties, and did not refer to the extra fees as "kickbacks". UNOHCI and OIP believed this was the best way to handle this matter so as not to prejudice any possible legal action in the future.

There were approximately 300 cases in which suppliers refused to take out the extra fees, asserting they had never paid anything beyond the value of the contract. Such cases were resolved by CPA querying the Iraqi ministry to confirm -- and, where possible, to document - the presence or absence of the extra fee.

The pace of contract renegotiations picked up considerably in September as OIP completed its processing of contracts and passed them on to UN agencies. Some agencies hired extra staff in an effort to complete the task by the November 21 deadline. Still, 251 contracts had not been

renegotiated by November 21. These were turned over to the Defense Contract Management Agency (DCMA) for re-negotiation.

Since November 21, CPA has also been working with the Iraqi ministries to ensure that the prioritized contracts are delivered on a timely basis. They have focused particularly on food contracts to ensure that the food pipeline for the Public Distribution System is maintained. It is expected that delivery of the remaining OFF contracts will continue beyond June 30, 2004.

Mr. Chairman, in closing I would like to thank you and all members of the Committee for your continuing support for Foreign Service officers, especially those in Iraq, and for your support for the Diplomatic Readiness Initiative. It makes a great deal of difference to people working 16-18 hours per day in dangerous conditions to know that you are interested in and appreciate their service.

Mr. SHAYS. I thank you, Ambassador Raphel. We not only work 16 to 18 hours a day, both our diplomatic corps and all those who are associated with this effort, but our military as well, 7 days a week. It's astounding.

At this time, we would recognize Mr. Thibault. Thank you for being here, sir.

Mr. THIBAUT. Thank you, Mr. Chairman, members of the subcommittee.

My statement focuses on the Defense Contract Audit Agency's [DCAA's], evaluation of contracts proposed by the Iraqi government that were approved and funded but not delivered at the outset of the Iraqi war last spring, under the United Nations Oil-for-Food program as well as the financial assistance DCAA is currently providing in the transition of the Oil-for-Food program to the Coalition Provisional Authority.

In May 2003, the Under Secretary of Defense for policy identified a requirement for an evaluation of approved and funded Oil-for-Food contracts before the program was transitioned to CPA. The Under Secretary of Defense Comptroller asked DCAA to support the Under Secretary for Policy by forming a joint review team with the Defense Contract Management Agency. A team of DCAA auditors and Defense Contract Management Agency contract specialists worked on this evaluation from mid-May until the end of August 2003. A final report was issued on September 12, 2003.

A review team and representatives from State, USUN and the Department of Defense met with representatives from the United Nations Office of Iraq Programs [OIP], in order to gain an understanding of the review and approval process for Oil-for-Food contracts. OIP's primary focus, as they informed us, was an administrative contractual review of the items being purchased from a legal or a U.N. resolution perspective, an example being looking for dual use technology. OIP staff further informed us that they performed very limited, if any, pricing reviews or cost audits on individual contracts. The review team was finally advised by U.N. officials that no contracts were disapproved solely based on pricing.

The team reviewed 759 contracts, or 10 percent of the total of 7,591 approved and funded contracts at the outset of the Iraqi war. That information was obtained from the United Nations with the assistance of the State Department. The 759 contracts that we did review were valued at \$6.9 billion, or about 60 percent of the total approved and funded amount of \$11.5 billion. Approximately 80 percent of those contracts were what was referred to as Phase 8 or later, or from June 2000 or later.

The team noted potential overpricing totaling \$656 million in 48 percent of the contracts that we reviewed. The team was unable to form a definitive conclusion on 44 additional contracts valued at \$1.1 billion, because the contracts lacked sufficient detail to make price comparisons of similar goods, or the team was unable to obtain independent pricing data for comparable goods.

While the team reviewed contracts from more than 400 different suppliers, there were 34 of those suppliers or companies where overpricing amounted to more than \$5 million per company. The overpricing for these 34 companies represents two-thirds of the potential overpricing of \$656 million. Moreover, the potential over-

pricing for the top three companies accounts for 19 percent of that total. For your information, a company from Syria was the largest single company involved with potential overpricing, and of the top nine, five of them were from Russia.

Food commodity contracts were the most consistently overpriced, with overpricing identified in 87 percent of the total contracts in this category and over \$390 of potential contract overpricing. The team also attempted to identify contracts with illicit charges, or what's referred to as after-sale service charges. The team found that identifying the existence of such surcharges well documented is generally not possible from an examination of the contract documents.

And I might say, the contract documents in some cases, and we have all 759 contracts that we reviewed, range from two or three pages for some of the contracts to several hundred pages for some of the other contracts. The team found that it was very difficult to examine or to identify that; however, the team did find five examples of after-sales service charges ranging from 10 to 15 percent. Finally, the team also identified items of questionable utility for use by the Iraqi people. For example, among the contracts reviewed by the team were two contracts valued at more than \$16 million for high-end Mercedes Benz touring sedans for a total of 300 cars.

Key recommendations to the Coalition Provisional Authority by the team included require pricing adjustments, including deletion of service charges on all overpriced contracts; advise the U.N. not to proceed with overpriced contracts or suppliers who refuse to adjust their prices downward; assess the need for the large quantity of spares and training items that were identified within the contracts; for any future OFF contracting require competitive bidding where applicable; and for future OFF contract, require suppliers to provide detailed specifications for items being supplied and detailed cost data and estimates for unique items or sole source items.

DCAA has also provided additional financial advisory services to support the transition of the Oil-for-Food program to the CPA in northern Iraq, and we continue to do that. While DCAA has not performed any audits of the Oil-for-Food program in northern Iraq, the agency has provided recommendations on strengthening the CPA's Office of Project Coordination Internal and Financial Controls. One example will suffice.

DCAA auditors recently conducted physical perambulations and observations of Oil-for-Food warehouses in northern Iraq. I might note that there are presently 52 such warehouses in northern Iraq alone. The auditors found a range of issues including warehouses without electricity or running water; guards not being paid on time; inventory stored in the open air or not protected, no roof; furniture damaged by simply being piled into large heaps in an open environment; computers, printers, scanners, copiers and other office equipment, more high-tech equipment damaged by bird droppings to the point where it seeped into central processing units and the like.

And this example, which I believe is a good example, we believe that these obvious inventory control issues are ongoing and need to be addressed before the planned transition to the Iraqi governing council on July 1, 2004. All DCAA recommendations of this na-

ture have been provided in writing to the Director of CPA Office of Program Coordination.

Last, we continue to work with the new CPA inspector general's office, which is performing a comprehensive evaluation of internal and financial controls in advance of the July 1 transition. We have provided support in writing the statement of work for their organization to hire or engage an external auditor and we're acting as the contracting officer's technical representative to assure that audit is done in accordance with the terms of the statement of work.

In closing, I would like to underscore that DCAA is committed to supporting the CPA and the CPA inspector general in transitioning this important program to the Iraqi people. Thank you, Mr. Chairman, for the opportunity to present the results of our review.

[The prepared statement of Mr. Thibault follows:]

**Statement for the Record of Michael Thibault
Deputy Director, Defense Contract Audit Agency
House Subcommittee on National Security, Emerging Threats, and International Relations
April 21, 2004**

Mr. Chairman, members of the subcommittee, my statement focuses on the Defense Contract Audit Agency's (DCAA) evaluation of contracts proposed by the Iraqi government that were approved and funded, but not delivered, under the United Nations Oil for Food program, as well as the financial assistance DCAA is providing in the transition of the Oil for Food program to the Coalition Provisional Authority (CPA).

Joint DCAA/DCMA Evaluation

In May 2003, the Under Secretary of Defense (USD) for Policy identified a requirement for an evaluation of approved and funded Oil for Food contracts before the program was transitioned to the CPA. The Under Secretary of Defense (Comptroller) requested DCAA to support the USD for Policy by forming a joint review team with the Defense Contract Management Agency (DCMA). A team of DCAA auditors and DCMA contract specialists worked on the evaluation from mid-May until the end of August 2003. A final report was issued on September 12, 2003. (This report has been approved for release.)

The review team met with representatives from the United Nations Office of Iraq Programme (OIP) in order to gain an understanding of the review and approval process for the Oil for Food contracts. OIP's primary focus was an administrative/contractual review of the items being purchased from a legal (United Nations Resolutions) perspective. Although OIP informed us that they did, on occasion, raise pricing issues during its review of contracts submitted for approval, validating pricing was not part of their mission since no UN resolution had tasked OIP with assessing the price reasonableness of contracts. Therefore, OIP performed very limited, if any, pricing reviews or cost audits on individual contracts. The review team was further advised by UN officials that no contracts were disapproved solely based on pricing.

The primary objectives of the DCAA/DCMA evaluation were to review Oil for Food contracts for price reasonableness, and develop recommendations and lessons learned that may be applied to the transition of the Oil for Food program to the CPA. The team reviewed 759 contracts (10 percent of the total 7,591 approved and funded contracts). The 759 contracts were valued at \$6.9 billion, or about 60 percent of the total approved and funded amount of \$11.5 billion. Approximately 80 percent of the contracts reviewed are from Phase 8 or later (from June 2000 or later). Contracts were selected for evaluation to represent the broadest possible range of commodities across all sectors of the Iraq economy. Selections within the different sectors were based on dollar value, priority of goods, past issues with certain suppliers, and the description of the goods to be provided. The State Department worked with the OIP to provide the review team with copies of the selected contracts.

To evaluate the pricing of the selected contracts, the team reviewed the terms of each contract and searched for available pricing information for the goods provided. The type of pricing information the team utilized included:

- World Market prices for food commodities (based primarily on data from the U.S. Department of Agriculture)
- Published Price Lists for the same or similar items
- Vendor quotes for the same or similar items
- Third-party pricing guides, such as Kelly Blue Book for vehicle values
- U.S. Government purchases for the same or similar items
- Published Industry Statistics and Standards
- Internet research for similar private or public sector projects and items

For example, our analysis of food contracts was based on world market prices for the individual commodities (wheat, rice, sugar, etc.). Data, including market prices and transportation costs for most food commodities, are maintained by the U.S. Department of Agriculture. For most of the food commodities, the team was able to obtain market prices specific to the countries and time periods specified in the contracts. The analysis of food commodities also included estimated shipping (including typical insurance costs) to a nearby port, and inland trucking costs to points within Iraq. The analysis did not include costs for any potential transportation delay and disruption (demurrage).

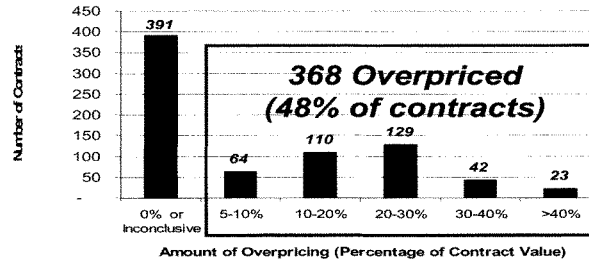
The results of the joint team review are shown below:

CONCLUSION	No. of Contracts	Value	Overpricing
POTENTIALLY OVERPRICED	368	\$3.1 Billion	\$ 656 Million
REASONABLY PRICED	347	\$2.7 Billion	
INCONCLUSIVE	44	\$1.1 Billion	
TOTAL	759	\$6.9 Billion	\$656 Million

The team noted potential overpricing totaling \$656 million in 48 percent of the contracts evaluated. The team was unable to form a definitive conclusion on 44 contracts, valued at \$1.1 billion because the contracts lacked sufficient detail to make price comparisons to similar goods, or the team was unable to obtain independent pricing data for comparable goods. While the team reviewed contracts from more than 400 different suppliers, there were 34 companies where overpricing amounted to more than \$5 million per company. The overpricing for these 34 companies represents two-thirds of the total potential overpricing of \$656 million. Moreover, the potential overpricing for the top 3 companies accounts for 19 percent of the total.

The review team considered a contract to be overpriced if the overpricing in total exceeded 5 percent of the contract value. The 5 percent reasonableness threshold was selected to assure that any reported potential overpricing was conservatively presented and did not overstate

the issue. (Normally, DCAA would take exception to all costs over an estimated reasonable price). A further breakdown of the overpriced contracts is shown below:



Food commodity contracts were the most consistently overpriced, with overpricing identified in 87 percent of the contracts in this category. The potential overpricing by sector is detailed in the following chart:

Sector	Total Contracts		Potentially Overpriced					
	(a) No.	(b) Value (\$000)	(c) No.	(c)/(a) Percent of Contracts ¹	(d) Value (\$000)	(e) Overprice (\$000)	(e)/(d) Percent Overpriced ²	(e)/(b) Percent of Total ³
Food	178	2,131,392	155	87%	1,743,404	390,386	22%	18%
Electricity	35	1,225,974	8	23%	134,444	21,245	16%	2%
Transportation	88	595,002	19	22%	134,122	23,543	18%	4%
Vehicles	135	513,426	79	59%	145,860	17,790	12%	3%
Oil	49	611,769	16	33%	162,295	25,845	16%	4%
Agriculture	62	313,056	29	47%	173,312	41,286	24%	13%
Heavy Equip	36	265,950	9	25%	98,281	15,184	15%	6%
Housing	66	451,408	17	26%	173,756	37,991	22%	8%
Water & Sanitation	33	363,657	9	27%	72,705	21,218	29%	6%
Health	55	349,482	17	31%	175,833	39,746	23%	11%
Education	15	87,413	6	40%	58,237	20,425	35%	23%
Miscellaneous	7	31,293	4	57%	30,550	1,259	4%	4%
Total	759	6,939,822	368	48%	3,102,799	655,920	21%	9%

¹ Percent of contracts that are potentially overpriced

² Extent of overpricing on overpriced contracts

³ Extent of overpricing on all contracts

The evaluation team also noted that many of the equipment and vehicle contracts contained unusually large quantities of spares. The team was advised that Iraq often purchased and warehoused large quantities of spares because it was uncertain that they would be able to obtain them in the future if the Oil for Food program expired, or if Iraq was otherwise unable to import goods. The team also evaluated 64 contracts that required the sellers to provide, at their own expense, training to Iraqi personnel. The contracts almost always stipulated the duration and location of the training. Generally, the training was to be offered in the supplier's country. In all cases the training was not separately priced. The team also attempted to identify contracts with illicit surcharges ("after sales service charges"). The team found that identifying the existence of surcharges is generally not possible from an examination of the contract documents

alone, since the contract terms and conditions do not specifically identify the surcharges. However the evaluation did identify 5 examples of after sales service charges ranging from 10 to 15 percent.

Finally, the team also identified items of questionable utility for use by the Iraqi people. For example, among the contracts reviewed by the team were two contracts valued at more than \$16 million for high-end Mercedes Benz touring sedans (a total of 300 cars). Another example is that we found 2 contracts awarded for a total of 90,000 reels of cigarette paper valued at over \$600,000.

Key recommendations to the Coalition Provisional Authority contained in the DCAA/DCMA report included the following:

- Require pricing adjustments, including deletion of Iraqi "service charges" on all overpriced contracts where the overpricing cannot be adequately explained by the supplier.
- Advise the UN not to proceed with overpriced contracts or suppliers who refuse to adjust their prices downward.
- Assess the need for the large quantity of spares and training. Remove contract requirements and adjust contract prices downward for unnecessary items.
- For any future OFF contracting, require competitive bidding, where applicable, for commodity items.
- For future OFF contracting, require suppliers to provide detailed specifications on items being supplied and detailed cost data and estimates for unique (sole source) items.

DCAA Financial Support to the Oil for Food Program Transition

In September – October 2003, DCAA provided financial advisory assistance to the CPA Oil for Food Transition Team by assisting with the verification of the assets recorded on UN inventory records located in warehouses in Iraq. DCAA has also provided additional financial advisory services to support the transition of the Oil for Food program to the CPA in Northern Iraq. While DCAA has not performed any audits of the Oil for Food program, the Agency has provided recommendations on strengthening the CPA's Office of Project Coordination (OPC) internal and financial controls. These include:

- Recommendations related to inventory controls
- Recommendations related to cash management controls
- Recommendations on management controls and the hiring of key staff positions
- Established procedures to perform bank reconciliations and initial balance sheets

For example, DCAA auditors recently conducted physical perambulations and observations of Oil for Food warehouses in Northern Iraq. The auditors found a range of issues including warehouses without electricity or running water; guards not being paid on time; inventory stored in the open air; furniture damaged by being piled into large heaps in an open environment; computers, printers, scanners, copiers, and other office equipment damaged by bird

droppings. In this example, we believe these obvious inventory control issues are ongoing and need to be addressed by the CPA before the planned transition to the Iraqi Governing Council on July 1, 2004. All DCAA recommendations of this nature have been provided in writing to the Director, CPA Office of Project Coordination.

DCAA Support of Internal Control Evaluation of OFF Program

Based on a request from Ambassador Bremer, the CPA Inspector General (IG) is working to engage an independent accounting firm to review Oil for Food field activities in Iraq. The objectives of the review will center on documenting the internal controls associated with the Oil for Food program, assist CPA officials in effective discharge of their duties, and ensure that CPA oversight promotes effective control at a reasonable price.

The evaluation will be conducted in accordance with International Standards on Assurance Engagements (ISAEs). The review will focus on the key internal control points of the program, as requested by Ambassador Bremer, to include the Oil for Food Contract Authentication and Payment Process, safeguarding of all Oil for Food assets (inventory and cash), and identifying risk for fraud, waste and abuse.

DCAA is working with the CPA IG to include refining the statement of work for the independent accounting firm. DCAA will also act as the Contracting Officer's Technical Representative (COTR) in support of the CPA IG evaluation. As the COTR, DCAA will monitor the independent accountant's work to ensure compliance with contract terms and the quality of the final work product.

Closing

In closing I want to underscore that DCAA is committed to supporting the CPA and the CPA IG in transitioning this important program to the Iraqi people. I look forward to addressing any questions or comments that you may have. Thank you.

Mr. SHAYS. Thank you, Mr. Thibault.

At this time, the Chair would recognize Mr. Ross to finish up, then we'll have our questions.

Mr. ROSS. Thank you, Mr. Chairman.

Mr. Chairman, distinguished members of the subcommittee, thank you for inviting me to testify today about the Hussein regime's corruption of the OFF program, and why Treasury's ongoing financial investigative efforts in Iraq and elsewhere to identify and return the same regime-controlled assets can assist in uncovering OFF abuses.

On March 18, 2004, Treasury Deputy Assistant Secretary Juan Zarate testified before the House Financial Services Subcommittee on Oversight and Investigations about the interagency and international efforts to identify, freeze and recover Iraqi assets worldwide. That effort is discrete from and yet related to our inquiries. In the former, our mission is to identify and target companies and individuals "fronting for," that is, owned, operated or acting on behalf of the former regime. The OFF inquiry casts a much wider net, potentially including all who traded with Iraq under OFF.

The distinguished panelists here, who are far more versed in the creation, development and machinery of the OFF program and the U.S. efforts at the United Nations and elsewhere to do all possible to curb its abuses, have and will address these topics. My primary purpose today is to describe to this committee how the Treasury Department, regardless of the financial crimes being addressed, applies unified financial investigative methodologies and technologies.

As Mr. Ruppertsberger remarked earlier, we follow the financial evidence wherever it may lead, whether working with the DEA on the financing of drug trafficking, FBI on terrorist financing, Homeland Security on IEEPA related sanctions busting schemes, or the military in the case of insurgency financing, Treasury components bring the same financial crimes disciplines and expertise, as well as our unique international financial contacts, to the table. Further, attacking the use by criminals of a financial system, for example, hawalas or cash couriers, affects all criminal groups using that system. The hawaladar may move narcotics proceeds 1 day, terrorist related proceeds the next, and finally funds destined for Iraqi insurgents the day after. Removing that hawaladar or mandating a transparent hawala system disrupts each of these criminal groups simultaneously.

Front companies OFF connections. This past week, the United States and the United Kingdom jointly nominated to the United Nations for listing under UNSCR 1483 eight "front" companies of the Hussein regime, as well as five individuals associated with those companies. Investigations of these companies as front companies led also to information concerning abuse of the OFF program by purchases of armaments and weapons for the regime. Such front company and individual designations, and more are to come, assist the international community identify and return Hussein related assets, and should prompt other countries to undertake independent investigations to identify other Iraqi-related assets, some of which may very well be OFF violation related.

The OFF program was designed by the United Nations to balance the needs of the Iraqi people for humanitarian relief against

the need of the world community to prevent the re-arming of Iraq. OFF, however, presented the Hussein regime with opportunities exploitable at the point of sale and movements of oil as well as in the sale of goods to Iraq. Significantly, the movement of oil under the OFF program also provided a convenient cover for the regime's sale of illicit and unlicensed oil.

Treasury's role pre-2003 war, Office of Foreign Assets Control. August 1990, responding to Iraq's invasion of Kuwait, the President issued Executive orders declaring a national emergency with respect to Iraq. These orders imposed economic sanctions against Iraq. The Iraqi sanction regulations implementing these Executive orders were administered by the Treasury Department's Office of Foreign Assets Control [OFAC]. After U.N. establishment of the OFF program in 1996, OFAC amended the regulations to permit the issuance of licenses for U.S. persons to engage in off-sanctioned transactions. The regulations allowed U.S. persons to enter into contracts with the Iraqi government for that purpose, but required further specific authorization from OFAC before executing those contracts.

OFAC also authorized the operation of the escrow account established by UNSCR 986. Pursuant to paragraph 15 of that resolution, the escrow account was afforded the traditional privileges and immunities by the United Nations Security Council. OFAC is reviewing the licenses it issued in support of the OFF program to determine if any U.S. persons were involved in any inappropriate activity. And if so, we will take all appropriate investigative and enforcement steps as may be necessary.

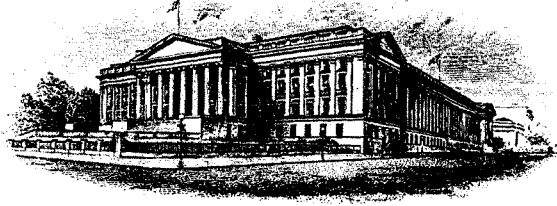
Treasury post-2003 war. The Department has undertaken an interagency and international effort to identify, trace and return looted Iraqi assets, and is working closely with the interagency community to identify, trace and choke off funding for the Iraqi insurgents. These undertakings harness all components of the Department, including IRSCI, which has had agents in Baghdad for a considerable period of time. These larger efforts, especially document exploitation and interviews, have revealed important information that potentially bear upon the OFF inquiries launched by both United Nations and the CPA. Treasury pledges to assist these investigations to the fullest extent appropriate.

The Hussein regime could not have contemplated the vast windfall of documents and interview information that the IRS-CI agents, our military and others have unearthed in Iraq. These records and information provide crucial insights and leads concerning the Hussein regime's front companies, his oil smuggling schemes and OFF violations. Access to and vigorous exploitation of Iraqi financial information is essential.

The efforts of this committee and those of the United Nations and in Iraq to identify and trace the violations occurring in the OFF program are important. Corrupt dictators will try to abuse future humanitarian efforts for their purposes. We must do all pos-

sible to ensure that future international humanitarian efforts are shielded from such abuse, and that intended relief arrives unencumbered by illicit baggage. The Treasury Department is pleased to contribute to these efforts and will continue to do so.

Thank you again for the opportunity to appear, Mr. Chairman.
[The prepared statement of Mr. Ross follows:]



**DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS**

EMBARGOED UNTIL DELIVERY
April 21, 2004

Contact: Molly Millerwise
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**Testimony of
Lee Jeffrey Ross, Jr., Senior Advisor
Executive Office for Terrorist Financing & Financial Crimes
U.S. Department of the Treasury**

**Before the House Subcommittee on
National Security, Emerging Threats, and International Relations
April 21, 2004**

Chairman Shays, Vice-Chair Turner, and distinguished Members of the Subcommittee, thank you for inviting me to testify today about the Hussein regime's corruption of the Oil-for-Food (OFF) Program -- through kickbacks, after sales fees, inflated pricing and other methods -- and the Department of the Treasury's efforts to help uncover abuses associated with OFF in light of our overarching mission to recover Hussein-related assets.

On March 18, 2004, Treasury Department Deputy Assistant Secretary Juan Zarate testified extensively before the House Financial Services Subcommittee on Oversight and Investigations about the overarching interagency and international efforts to identify, freeze, and recover Iraqi assets worldwide. I am attaching the March 18 testimony to this statement, and request that it be admitted into the record of this hearing.

Our efforts have been to identify and target companies and individuals "fronting," that is, owned, operated, or acting on or behalf of the former regime. Our goal is to identify and return to the Iraqi people that which has been stolen from them financially.

I leave it to my distinguished panelists, who are far more versed in the creation, development and machinery of the OFF program and the U.S. efforts at the United Nations and elsewhere to do all possible to curb its abuses, to discuss those topics. Their testimony will describe a concerted

history of U.S. efforts to ensure the proper functioning of the OFF Program and to deny the Hussein regime the benefits of its corrupt and illegal actions in OFF.

My primary purpose today is to describe to this Committee how the Treasury Department, regardless of the disparate financial crimes being addressed — narcotics and other money laundering, the financing of weapons of mass destruction, organized crime, terrorist financing, state corruption, the financing of the insurgency in Iraq, or the intentional corruption and abuse of a trade-based financial system such as the OFF Program -- applies unified financial investigative methodologies and techniques. In the financial crimes identification and enforcement arenas, we at the Treasury Department employ an integrated approach to uncovering such systems and schemes.

Whether working with the DEA on the financing of drug money trafficking, the FBI on terrorist financing, the Department of Homeland Security on International Emergency Economic Powers Act (IEEPA)-related and sanctions busting schemes, or in the case of Iraq, with the military in the case of insurgency financing, we (the Executive Office for Terrorist Financing and Financial Crimes) the IRS-CI, the Office of Foreign Assets Control, and the Financial Crimes Enforcement Network) bring the same financial crimes disciplines and expertise, as well as our unique international financial contacts, to the table.

This unified approach to financial crimes and sanctions enforcement is being taken a step further. Last month, the Administration announced the creation of the Office of Terrorism and Financial Intelligence at Treasury. This new Office further will enhance the Treasury Department's ability to identify and address the financial underpinnings of financial crimes at home and abroad by streamlining the analysis and use of both financial and intelligence data available to the Department.

As we continually find, and as our financial enforcement efforts in Iraq again have confirmed, attacking the use of a financial system, for example, hawalas or cash couriering, by one criminal group for one purpose, can lead to the identification of other financial criminals utilizing the same systems and financial professionals. A hawaladar may move narcotics proceeds one day, terrorist-related proceeds the next, and funds destined for Iraqi insurgents the day after. Removing the hawaladar, or mandating a transparent hawala system, disrupts each of these criminal groups simultaneously.

Recent Designations and Nominations to the United Nations

Our efforts to identify and block and return funds looted by the Hussein regime through regime-created or controlled "front" companies as described in Executive Order 13315, has led as well to entities and individuals involved in the corruption and abuses of the OFF Program.

This past week, the United States and the United Kingdom jointly nominated to the United Nations for listing under UNSCR 1483 eight "front" companies of the Hussein regime, as well as five individuals associated with those companies.

These designations and submissions to the United Nations for listing followed the March 18, 2004, designation of 16 immediate family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315, and the submission of these individuals, as well as the identities of 191 Iraqi parastatal (quasi-government) entities, to the United Nations for listing by the 1518 Committee under U.N. Security Council Resolution (UNSCR) 1483.

These actions, and more are to come, are being taken to assist the international community identify Iraqi assets connected to the designated individuals, parastatals and most-recently, "front" companies. Further, by these actions, the United States is encouraging other countries to undertake independent investigations to identify other Iraqi-related assets, publish similar listings, and return identified funds to the Development Fund for Iraq.

The OFF Program was designed by the United Nations to balance the needs of the Iraqi people for humanitarian relief against the need of the world community to prevent the rearming of Iraq.

But Saddam's regime, existing on subterfuge, concealment and the ruthless gathering and use of all possible financial resources, attempted to corrupt the OFF Program, as well as provide a cover for the illicit sale of oil outside OFF.

Unauthorized Surcharge on OFF Oil Sales

Beginning in the late 1990's the Hussein regime abused this program to generate illicit revenues by instituting a surcharge scheme on OFF oil sales. Pursuant to this scheme, Iraq would charge an extra 10 to 35 cents per barrel "surcharge" on Iraqi oil sales transacted under the OFF program. The size of the "surcharge" varied with the oil shipment's destination. After this became known in late 2000, the U.S. and UK thwarted further surcharges by requiring "retroactive pricing" of Iraqi oil, ensuring that the actual price paid was close to market price.

Before the surcharges ended, however, money reportedly was accumulated at Iraqi embassies or deposited into bank accounts in various jurisdictions, and later withdrawn in the form of cash. This cash was then transported back to Iraq and reportedly deposited into the Central Bank of Iraq. Some of the cash generated by this kickback scheme was not repatriated to Iraq, but instead was used to buy military equipment and other goods prohibited by international sanctions, without the knowledge of the UN.

After Sale Service Fee Scheme

The "after sale service fee" scheme involved kickbacks generated from Iraqi purchases of goods authorized under the OFF program. Under OFF, proceeds from authorized OFF Iraqi oil sales were deposited in a designated UN account, to be used for humanitarian purposes, such as purchasing food and medical supplies for the Iraqi people. To circumvent the restrictions on purchases and generate additional illicit revenue, the Iraqi government ordered each of its ministries to institute a 10% kickback scheme. Vendors selling goods to the Iraqi government were required to inflate the contractual purchase price by 10% and kick back the excess charge to the Iraqi government. Thus, a vendor would submit records to the UN indicating that it was

selling \$110 worth of goods to Iraq, when in fact the vendor was selling only \$100 worth of goods, and was returning the additional \$10 to Iraq as a kickback.

The illicit funds generated by this scheme reportedly were handled similarly to the oil price surcharges, and were either repatriated as cash to Iraq or used to buy goods in violation of UN sanctions. After Iraqi ministries began cooperating with the CPA, a process was instituted to renegotiate these contracts, with a view of eliminating kickbacks. We are working with the Department of State and the CPA in the latter's ongoing review of these contracts.

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Treasury Role-Pre-2003 War

Office of Foreign Assets Control

On August 2, 1990, upon Iraq's invasion of Kuwait, the President issued Executive Order 12722, declaring a national emergency with respect to Iraq. This order, issued under the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the U.S. Code, imposed economic sanctions against Iraq, including a complete trade embargo and a freeze of Government of Iraq property and interests in property. In keeping with United Nations Security Council Resolution 661 of August 6, 1990, and under the United Nations Participation Act (22 U.S.C. 287c), the President also issued Executive Order 12724 of August 9, 1990, which imposed additional restrictions. The Iraqi Sanctions Regulations, 31 CFR part 575 (the "Regulations"), implement Executive Orders 12722 and 12724 and are administered by the Treasury Department's Office of Foreign Assets Control ("OFAC").

In keeping with United Nations Security Council Resolution 986, which established the United Nations Oil for Food program, in 1996 OFAC amended the Regulations to permit the issuance of licenses for U.S. persons to purchase Iraqi petroleum and petroleum products, to supply pipeline parts and equipment, and to supply humanitarian goods to Iraq. The regulations allowed U.S. persons to enter into contracts with the Iraqi government for that purpose, but required further specific authorization from the OFAC before executing those contracts. The regulations also required U.S. persons to comply with requirements established by the United Nations.

Additionally, OFAC authorized the operation of the escrow account established by United Nations Security Council Resolution 986. Pursuant to paragraph 15 of that resolution, the escrow account was afforded the traditional privileges and immunities by the United Nations Security Council.

OFAC is reviewing the licenses it issued in support of the OFF Program to determine if any U.S. persons were involved in any inappropriate activity and, if so, will take all appropriate investigative and enforcement steps as may be necessary.

Treasury Role-Post 2003 War

As the recent testimony from DAS Zarate demonstrates, the Department has undertaken a robust interagency and international effort to identify, trace and return looted Iraq assets, and most recently is working closely with the interagency community to identify, trace and choke off funding for the Iraqi insurgency. This undertaking has involved all components of the Department, including IRS-CI which has placed agents in Baghdad and elsewhere on a 90 day rotating basis. These efforts, especially document review and interviews, have revealed important information that do potentially bear directly upon the recent OFF inquiries launched

by both the United Nations and the CPA through the Iraqi Board of Supreme Audit. Treasury pledges to make all efforts to assist both of these investigations to the fullest extent appropriate.

Further, the Hussein regime never could have contemplated the vast windfall of document and interview information that the IRS-CI agents, our military and others have unearthed in Iraq. These records and information provide crucial insights and leads concerning the Hussein regime's "front" companies, his oil smuggling schemes, and OFF violations. Access to and vigorous exploitation of Iraqi information is essential. As with all other crimes relying on financial systems to raise and move funds, a "follow the money" approach will reveal the originators, financial facilitators and beneficiaries who perverted elements of the OFF Program.

Lessons Learned and Conclusion

The efforts of this Committee and those at the United Nations and at the CPA to identify and trace those who abused the OFF Program are important. The past is prologue to the future, and corrupt dictators will seek to abuse future humanitarian efforts for their purposes. It is essential to identify key nodes for this abuse, including financial manipulations, to ensure both that future international humanitarian efforts are shielded from such abuse to the greatest extent possible and that a larger share of the relief intended does in fact arrive at its intended destination. The Treasury Department is pleased to be a part of these efforts, and will do all possible to achieve a successful conclusion. Thank you. I will be happy to respond to any questions you may have.

Mr. SHAYS. Thank you very much.

We're going to do 8 minute questioning, and we're going to start with the vice chairman of the committee, Mr. Turner, then I'm going to go to you, Mr. Waxman.

Mr. TURNER. Thank you, Mr. Chairman.

One thing we've learned in this, obviously, is that the U.N. has treated as confidential many aspects of the Oil-for-Food program, including the identity of contractors and buyers, prices, quantity, quality of goods and bank statements.

One thing I'm interested in is the rationale for this confidentiality. When you look at the responsibility of the United Nations to maintain the integrity of the program and investigate allegations of corruptions, it would seem that such confidentiality would hamper the ability to do that. When you look at the issues of the U.N.'s financial integrity and its future role in Iraq, this is an important issue, as to how a program like this, which was undertaken as the largest humanitarian effort, could be structured in a confidential way, and as many people now are calling for future efforts to be transparent, the rationale for that which seemed to actually encourage or assist in efforts of fraud or deception.

So I would like if you would, please, to comment on why the Oil-for-Food process was done outside of the public eye, and on the issue of transparency and the issue of confidentiality and the U.N.'s response.

Ambassador KENNEDY. Mr. Turner, the U.N. is not treating the documents as confidential. Rather they're treating them, I would say, as non-public. The documents are available to member states, or members of the Security Council if it's a 661 document. So the United States has access to those documents, for example, and they have made documents available to the Coalition Provisional Authority, when the Coalition Provisional Authority in effect became the interim successor to Iraq.

So the United States has made documents available to the United States and to the CPA, and to any other member of the Security Council 661 Committee who has asked to see them. If there are specific questions that you or your staff have about documents, we will be very, very pleased to get together with you or them and to make sure that they are fully satisfied as to the nature and the content of those documents.

Mr. THIBAUT. Congressman Turner, might I add that data is, what's behind the data in terms of any evaluation by the United Nations when the contract was awarded, they told us there was no evaluation when we visited them. But for example, when I cited the 34 companies that represented two-thirds of the overpricing, we have a data base with 100 percent of the companies we've reviewed with the specific names and contract numbers and the like. So that is available, and it is in the possession of the evaluation team for those contracts that had not been delivered at the outset of the war.

Mr. TURNER. Perhaps you guys can help me then, because it seems that the understanding of many of the members as we're going through this process is that regardless of the issue of availability of documents now that the process itself, when it was being undertaken, is not one that was available to the public eye, was not

transparent, was one that allowed for a process of deception, and was not as other processes would have been structured, available for the type of level of scrutiny, especially for the number of dollars that are involved, and the fact that this was focused on a humanitarian effort was not structured in a manner that would have allowed the natural monitoring of this, that would have uncovered some of the allegations that you all are discussing today.

That certainly is an important process when we choose how we're going to do something in the future, or participate in something in the future. So if we're mistaken, that this was a process that, Mr. Ambassador, that was open and that would not have contributed to deception, please assist us in that.

Ambassador KENNEDY. If I could step back to the very beginning briefly, sir, the original decision, which was a collective decision, negotiated by the members of the Security Council. And if I might also say that one has to think of the United Nations as not an entity unto itself. The United Nations is an association of member states who can be very fractious, and who reach agreement among the collectivity of the member states, including in the Security Council.

When the resolution was negotiated in the Security Council, we, the United States, clearly would have liked to have a different and a more aggressive resolution. But the resolution was arrived at as a process of negotiation. That resolution left sovereignty with the government of Iraq. The government of Iraq was authorized under that resolution to enter into its own contracts. So the contract was between the government of Iraq and the XYZ corporation. The U.N.'s responsibility was to ensure that when that contract was written that there were no dual use materials, or other weapons of, armaments, no materials that were banned under the sanctions.

So the U.N.'s responsibility, a task given to the Secretariat by the member states, was to do that function. The result was that the contracts were written between Saddam Hussein and whichever company he chose to do it. That was the nature of it, and therefore, in effect, the proprietary nature of those contracts were between Saddam Hussein and the member state.

Should something different have been done? We can talk about hindsight, but that is the way the resolution was written and that is what was enforced under the Oil-for-Food program.

Mr. THIBAUT. I would support exactly what the Ambassador stated, Mr. Congressman. I would also say that until we went to the United Nations with the assistance of the State Department and said, we would like to see that data on the contracts, that you're absolutely accurate, it was not available publicly, or provided. I would reinforce the statement made by Ambassador Mann that the same evaluation that was done in 2003 could have been done in 2001 or 2000 and probably would have disclosed issues at that time.

Mr. SHAYS. Thank you.

Mr. Waxman, you have the floor for 8 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. Thibault, in September of last year, the DCAA issued a report regarding overpricing for Oil-for-Food contracts. We've heard a lot today about the problems surrounding the Oil-for-Food pro-

gram. However, the Oil-for-Food program ended in November, and \$7.6 billion of unused program funds have been transferred to the Development Fund for Iraq, the successor of the Oil-for-Food program.

Almost all of Iraq's revenues from the sale of crude oil are also placed in that fund. Currently there is \$6.2 billion in the fund.

As in the case of the Oil-for-Food program, there are concerns about overcharging and inflated prices involving the DFI. For example, there is considerable evidence that Halliburton significantly overcharged the DFI to import gasoline into Iraq.

Mr. Thibault, given the problems we've seen with the Oil-for-Food program, the evidence of overcharging involving the Development Fund for Iraq and the vast amount of money in the DFI, do you think that the DFI should be thoroughly and comprehensively audited?

Mr. THIBAUT. Yes, sir. I would absolutely agree. My understanding is processes have begun to do just that. And while that's not a DCAA function, that has been explained to us that, for example, we've been informed that the CPA inspector general on that audit will act as the contracting officer's technical representative to be sure that the audit done by an outside audit firm is complete and of sufficient quality. So I absolutely agree that given the magnitude of the dollars a full audit should be done. It's my understanding that process is in play. I don't know exactly where it's at.

Mr. WAXMAN. Well, Doug Feith, the Under Secretary of Defense for Policy, specifically requested the DCAA evaluate the Oil-for-Food contract prices. You mentioned that. That's correct, isn't it?

Mr. THIBAUT. Yes, sir.

Mr. WAXMAN. Did anyone from the Office of the Secretary of Defense request DCAA to perform a similar price evaluation of a sample of DFI contracts?

Mr. THIBAUT. No, sir, not related to the application of DFI funds on that, or what we in the profession might call source and application of the DFI contract. We were not asked to perform that audit.

Mr. WAXMAN. These priorities just don't make sense to me. To date, \$16.7 billion has been deposited into the DFI, which is controlled by the U.S. Government. And we need proper oversight of this fund. Can you tell us which Federal agency is in charge of conducting thorough, detailed and rigorous audits over the expenditures of billions of dollars of the DFI fund?

Mr. THIBAUT. Yes, sir, I believe it is the Department of Defense. And specifically the Coalition Provisional Authority has responsibility for the DFI funds. As I said before, I do know that they are in the process of arranging for that audit. One might ask the question, why not earlier. And again, I'm not in a position to answer that question.

Mr. WAXMAN. Let me ask Ambassador Kennedy. You were Paul Bremer's chief of staff at the Coalition Provisional Authority. I would like to ask you a few questions about the auditing of the CPA controlled Development Fund for Iraq, the successor to the Oil-for-Food program. On June 10, 2003, Ambassador Bremer issued regulation No. 2, which states that the CPA shall hire an independent, public accounting firm to ensure that the fund is used in a transparent manner to benefit the Iraqi people. This firm

would be separate from the auditors approved by the International Advisory and Monitoring Board, an international body that will oversee an audit of the DFI.

CPA didn't hire a public accounting firm, but instead hired a consulting firm called North Star. Is that correct?

Ambassador KENNEDY. Mr. Chairman, CPA put out public tenders for the internal audit and received, the scope of work included audit work, did hire North Star, which has two components. They do both accounting, audit accounting, and they also—they had an additional purpose. In addition to serving as the internal accountant, they were to be the internal auditor, to make sure that the process that we, the CPA, had set up to control the flow of funds in and out of the DFI were robust and sufficient.

So then when the external auditors were named by the International Accounting and Monitoring Board, we would have both good processes and an accurate numerical accounting. We wanted——

Mr. WAXMAN. So this firm is not auditing DFI. You're relying on the International Advisory and Monitoring Board to oversee the audit.

Ambassador KENNEDY. No, this is an—no, they are doing both an internal audit and internal oversight of our processes. Then over and above that, there is the International Accounting and Monitoring Board's activity. They selected several weeks ago an external firm, again following international tender.

Mr. WAXMAN. In May 2003, U.N. Security Council Resolution 1483 charged the International Advisory and Monitoring Board with ensuring the transparency and accountability of the DFI. It's my understanding the members of the board, including the IMF, World Bank and U.N. agreed on rules under which the board would operate called the terms of reference. During the summer Board members pushed for the power to order special in-depth audits of specific expenditures. However, the terms of reference weren't finalized until October because the CPA opposed special audit board.

Ambassador Kennedy, why did it take the CPA 5 months to agree that the board should have a special audit power, and did this delay mean that no one was auditing the DFI for 5 months while billions of dollars in DFI funds were being spent?

Ambassador KENNEDY. No, sir. The DFI funds during this entire period were being held by the Federal Reserve Board, and all receipts and disbursements from it were being run through Department of Defense, U.S. Department of the Army accounting procedures. So there were always records and accounts kept on all receipts and all disbursements from the Development Fund for Iraq.

It did take, as you correctly note, several months to pull together the disparate elements from four different international organizations, the United Nations, the International Monetary Fund, I believe it was the Arab Development Bank as well, and to arrive at an agreement on the terms of reference. But there was no attempt to hide the process or——

Mr. WAXMAN. I'm not asking about motives, I'm asking about the reality during that 5 month period. Was there an audit going on? I note the board only recently hired a private auditor, KPMG,

which hasn't yet begun its work. Isn't it true that over \$10 billion in DFI funds have been spent without anyone auditing those expenditures? I'm not asking about motives, I'm just asking whether that's the reality.

Ambassador KENNEDY. The reality, sir, is that audits take place on a periodic basis. I'm suggesting that there were financial controls in place that monitored all expenditures and all receipts and did that in a very, very controlled and rigorous process, so that when the auditors were named, they would then have solid records and solid books. Audits take place on a periodic basis, and we certainly wished and encouraged, which is why the CPA itself appointed its own internal audit capability, but again, an outside firm.

Mr. WAXMAN. Thank you. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. At this time, the Chair would recognize Mrs. Maloney. Well, actually, if you don't mind, I'm going to give my time to Mr. Ose and I'll take his time. Mr. Ose, you have the floor.

Mr. OSE. Thank you, Mr. Chairman.

I want to make sure that I understand the precursor conditions under which information regarding the Oil-for-Food program came to the public domain. When the United Nations ran the program, who was responsible for implementing the program? Ambassador Kennedy, do you know?

Ambassador KENNEDY. The program was run by the United Nations Office of Iraqi Programs, sir.

Mr. OSE. Who runs the United Nations Office for the Iraqi Progress?

Ambassador KENNEDY. The gentleman who was the officer in charge was Benan Sevan.

Mr. OSE. OK. So Benan Sevan was supervising the Oil-for-Food program under which we're concerned certain things may have happened that weren't particularly up to our standards. Prior to the United Nations creating the Oil-for-Food program pursuant to the resolution—let me phrase it the other way. Who was it that designed the Oil-for-Food program on behalf of the United Nations?

Ambassador KENNEDY. The Oil-for-Food program which came into effect in 1996 was designed by the member states of the Security Council under Resolution 986.

Mr. OSE. Did the Secretary of the U.N. put forward a proposal?

Ambassador KENNEDY. Yes, sir, it was a joint effort.

Mr. OSE. Who was it that the Secretary relied on to fashion the terms and conditions in 1996, that the Security Council ultimately approved? What I'm trying to get at is whether the person that designed it was also the person responsible for implementing it.

Ambassador KENNEDY. Mr. Chairman, I will have to submit that for the record. I do not have at my fingertips the names of the individuals in the Secretariat who worked on this. But the program was designed by the member states of the Security Council in consultation with the United Nations Secretariat. That's how resolutions come into being in the United Nations. You have in effect the Secretariat who serves as the staff arm of the United Nations, and then you have the member states. The member states call upon the

Secretariat for assistance, but they are in no way bound to accept any recommendations that may be put forward by the staff.

Then of course to fully implement the program, once the resolution was designed, the following step, which was because of the nature, the political nature of reaching agreement among the 15 member states of the Security Council, the second step was to negotiate a memorandum of understanding with the government of Iraq in order to fully put it into place, which is why the process started in 1995 with the Oil-for-Food program—

Mr. OSE. On that point, who negotiated with Iraq on behalf of the Security Council for the Oil-for-Food program?

Ambassador KENNEDY. That was done by the United Nations staff, the United Nations Secretariat against—

Mr. OSE. Who was responsible for it?

Ambassador KENNEDY. I'll have to get you a particular name. It was the United Nations staff. So they negotiated the program against the terms and conditions set forward by the member states of the Security Council, sir.

Mr. OSE. Somebody did it. Somebody with a name, like Joe Smith or Bob Jones.

Ambassador KENNEDY. I'll get you a name, sir.

Mr. OSE. All right. Now, Mr. Thibault, you talked about an issue having to do with spares and extras in the contracts.

Mr. THIBAUT. Yes, sir.

Mr. OSE. Could you elaborate on that a little bit? Obviously you have a contract, one of the concerns is whether or not it meets the terms and conditions, whether there's items in the contract that doesn't belong there, whether there's too many spares and extras or too few to complete the contract. What is it you're exactly concerned about relative to spares and extras and when you're done, before my time expires, Mr. Ross, I want you to expand on the concept or the phrase "traditional privileges and immunities" that you used relative to the escrow account.

Mr. THIBAUT. Congressman, what we found when we evaluated the 759 contracts we looked at was there was an unusually apparent large amount of spares, and we had a number of technical advisors and data sources for our analysis. As an example, I'll use one in vehicles, there were over—for the snapshot, and it was a big snapshot, but it was only a snapshot in time, those that hadn't been delivered—there were over 37,000 vehicles, the 300 Mercedes Benz I talked about—the decision was made that there would be an application for all the vehicles in the country properly controlled. And to date I have not been told that any of those vehicles were not delivered. Maybe somebody here—

Mr. OSE. Nobody's gone out lined them up and said, let me count them, though?

Mr. THIBAUT. What we recommended, well, the allegation that was shared with us by the United Nations was that these vehicles were either used as rewards or favors for Saddam's allies and friends, or they were used for resale basically to establish the equivalent of Iraq car lots to raise cash.

Mr. OSE. And the 661 committee signed off on purchasing \$21 million worth?

Mr. THIBAUT. Yes, sir, something like that. I can look it up.

Mr. OSE. OK. Again, I'm just trying to get to the spares and extras, and I would be happy to give you the question in writing so you can respond accordingly.

Mr. THIBAUT. I would be glad to.

Mr. OSE. I want to get to this concept of traditional privileges and immunities that Mr. Ross testified to. What does that mean? We're talking about Bank Parida, right?

Mr. ROSS. We're talking about the BNP escrow account that was established pursuant to UNSCR 986. Section 15 of 986 affirms that the escrow account established for the purposes of this resolution enjoy the privileges and immunities of the United Nations, which effectively makes that account, although residing here, a diplomatic account. Section 15 of 986 itself, U.N. Resolution states that the escrow account which would be established pursuant to 986, which is the BNP account, it's turned out to be the BNP account, would enjoy the full privileges and immunities of the United Nations, which prospectively makes that account, regardless of its residence, a U.N. diplomatic account.

So for instance, for purposes of OFAC, there is no ability to attach or go after that account with those privileges and immunities.

Mr. OSE. So, Mr. Chairman, if I may, if the fiduciary did something outside the terms and conditions, they're immune from prosecution?

Mr. ROSS. They would probably be immune—I would have to defer on that question. What I will answer—

Ambassador KENNEDY. Sir, could I take a crack at answering that?

Mr. OSE. If you would, please.

Ambassador KENNEDY. I am intimately aware of this from my time in Baghdad. The resolution set up in effect, set up an account, but it was actually two accounts, one at Chase Manhattan Bank and one at Banc BNP. Those funds, those accounts received the oil sales proceeds, so all the money came in—

Mr. OSE. Money was wired in.

Ambassador KENNEDY [continuing]. Wired in, letters of credit were issued in the beginning for the oil sales. The money was received and then divided up between the BNP account and the Chase Manhattan account depending on the various functions that were being pursued.

Mr. OSE. Seventy percent, 3 percent, all that stuff. Right.

Ambassador KENNEDY. Right. The north, the south, yes, sir.

The U.N. then would instruct in writing Chase Manhattan or BNP what to do with those funds. BNP or Chase Manhattan did not have any independent, discretionary control over the funds. They were simply serving as the holder of the funds on behalf of the United Nations. The reason why privileges and immunities were extended to those funds is there were large numbers of court suits around the world pursuing government of Iraq funds. The purpose of these funds, though, were to assist the people of Iraq with medical and humanitarian goods. So the immunity was given to those funds to prevent them from being seized and attached for court suits.

To answer the second part of your question about, if Chase Manhattan or BNP engaged in—

Mr. OSE. I'm sorry, the chairman has been very gracious giving me time, I have to respect that.

Mr. SHAYS. Just finish up.

Ambassador KENNEDY. Yes, sir. If BNP or Chase Manhattan engaged in illegal activities, the United Nations would have turned, as the United Nations has turned in the past, to the U.S. Attorneys Office for the Southern District of New York to bring criminal complaint against someone who committed a crime within that jurisdiction, sir.

Mr. OSE. Thank you.

Mr. SHAYS. I thank the gentleman. The Chair will recognize Mrs. Maloney.

Mrs. MALONEY. Thank you. Ambassador Kennedy, you testified that under the United Nations parameters, the Resolution 986 allowed the setting up of the operations and monitoring of the U.N. Oil-for-Food program. And the United States was a member of the U.N. committee called 661 that had the power to veto contracts, is that correct?

Ambassador KENNEDY. Yes, ma'am. We could put holds and the holds could become perpetual.

Mrs. MALONEY. We could block?

Ambassador KENNEDY. We could block contracts.

Mrs. MALONEY. Earlier you testified that the United States used this power many, many times, possibly 100 times to block contracts that we questioned might be associated with weapons of mass destruction, correct?

Ambassador KENNEDY. Yes, ma'am.

Mrs. MALONEY. Did the United States ever use its power to block contracts, because we questioned whether they were overpriced or illegal kickbacks or inflated prices? Did we ever use our power to question the price and overpricing of contracts?

Ambassador KENNEDY. Yes. We held, I believe, on over 2,000 contracts with a book value of somewhere around \$5.1 billion. We held contracts for a variety of reasons.

Mrs. MALONEY. I know, but you held them for weapons of mass destruction.

Ambassador KENNEDY. Right. We held—

Mrs. MALONEY. But I'm saying, did we, now, that's a separate category. Did we block contracts because we thought they were overpriced? For example, Mr. Thibault talked about 300 Mercedes that with their \$1,200 extra parts, did we block that contract? Obviously these 300 Mercedes were not for humanitarian purposes. Our Government could have blocked that contract. Did we use our power to block that contract?

Ambassador KENNEDY. If I could—

Mrs. MALONEY. And if we didn't, why didn't we?

Ambassador KENNEDY. Let me answer it in two portions, the second first. Under Security Council 986, there was no restriction on what Saddam Hussein could purchase, provided it wasn't armaments. So the Oil-for-Food actually is a—

Mrs. MALONEY. But Ambassador Kennedy, it may not have had restrictions on it, but as a member of the 661 Committee, we had the power, so you testified, to block any contract for any purpose that we wanted to block it. And my question, and I'll ask for it in

writing, I would like a list of all the contracts we blocked because we thought they were weapons of mass destruction and all the contracts we blocked because it was overpricing. And I would like to know why we didn't block a contract for 300 luxury Mercedes cars that obviously were not going to help the people of Iraq. That's one question.

Now, I want to get to the United Nations, and I understand there's not a—but actually, I would like to ask the defense auditor to followup on what your very good testimony, your excellent diagrams that you put forward before us. And your analysis of the Oil-for-Food program contracts includes very specific data and information on the percentage by which certain contracts overcharged the Iraqi government for humanitarian and other goods. I would like to ask you, Mr. Thibault, did your scientific analysis of these contracts require any knowledge from former Iraqi officials about how the pricing and kickback schemes worked?

Mr. THIBAUT. Congresswoman Maloney, thank you for the compliment. The only clarification that I would make is, rather than use the word scientific, I might use audit analysis or financial analysis.

Mrs. MALONEY. Your audit analysis.

Mr. THIBAUT. Yes, ma'am. But given that note, the answer, the short answer is no, it required no additional confirmation from the companies or within any other outside sources. And to use an example in the food, we had a very close relationship with the Department of Agriculture. And they used spot market prices, FOB, delivered to wherever in Baghdad they were supposed to go. They also provided us technical counseling.

So the analysis that we did was a stand alone analysis simply using the contracts and the value and the quantities and the types of goods and the quality outlined in the contract. We did not have outside corroboration if it would be from Iraq.

Mrs. MALONEY. You did an excellent job. So therefore, would it have been possible for you to have provided the administration with a similar analysis that would have identified all overpriced contracts before they were approved by the U.S. Government?

Mr. THIBAUT. Any entity such as the Defense Contract Audit Agency that would have been asked to perform the kind of analysis that we performed could have performed that analysis as long as they had the contracts provided to them, which in our case they were provided with State assistance by the United Nations officials. So again, the short answer is yes, that could have been done whether a year or 2 previous or 4 or 5 years previous.

Mrs. MALONEY. So obviously an important question for this committee is why our auditors, such as yourself, were not asked to review these contracts so we could have prevented this overpricing and abuse of the program. And obviously, going forward, Mr. Chairman, we should require that the United States is a member of the Security Council and has the authority to approve and disapprove and block contracts, that we should use the tools in our Government to analyze beforehand what is happening, so that we can make better decisions. He just testified that he could have given the same information without working with any Iraqis or anyone else from his office that would have prevented this abuse.

Did the United Nations have in place a program, I guess they called it the Office of the Iraqi Program, and this entity was responsible for administering the Oil-for-Food program. Did they have an internal audit process to review? Did they have an internal audit process?

Ambassador KENNEDY. There is both an internal and an external audit process at the United Nations, Mrs. Maloney. There is the Office of Oversight Services. It's in effect—the Inspector General of the United Nations audited the Oil-for-Food program on at least 50 occasions. Additionally, there is a board of audit, which is, if I'm making gross distinctions, the equivalent of the General Accounting Office, composed of the GAO equivalents from three member states. The Board of Audit of the United Nations also audited the program every 6 months.

Mrs. MALONEY. I would like Ambassador Kennedy, and you may not have this information now, but I would like to know if the internal audit operation of the United Nations ever suggested or recommended to the 661 Committee, the monitoring committee, which the United States was a member of, that contracts were overpriced and therefore should not go forward. Do you know, did the internal audit operation of the U.N. ever say, this is overpriced, this is wrong, we shouldn't be sending 300 Mercedes, we should be sending in food instead? Did they ever do such an audit, and can you give us that information?

Ambassador KENNEDY. They did not, because the mandate to the United Nations Secretariat from the Security Council resolution did not give them the authority to make such analysis and determinations. They did audits to in effect follow the funds, and to track the funding.

Mrs. MALONEY. Did the OIP itself, the Office of Iraqi Programs, the internal audit committee, did they put notes on contracts, questions on contracts? I would like to see the internal documents from the Office of Iraqi Programs.

Ambassador KENNEDY. Yes, the customs experts at the Office of Iraqi Programs did review the value of each OFF contract to ensure that the price was in the credible range. But if I could expand on that just for one brief moment. Saddam Hussein, in spite of his excessive villainy, was also rather clever. When you are purchasing food, infant formula, clothing, whatever for a nation of 24 million people, because the entire country is under sanctions, if you add only a small amount of money, 5 cents, 10 cents on a pound or a bushel of wheat and then make it up over incredibly large volumes to feed and clothe 24 million people, you stay within the credible range.

Because as my colleagues, who did an excellent job from the Defense Contract Audit Agency said, when you look at these contracts, they stayed within the credible range on many cases. So 3 or 5 cents more per pound or per bushel did not strike one as outside the credible range, given transportation and market forces.

Mrs. MALONEY. But the question was, did the customs inspectors, the internal auditors of the United Nations ever write memos or, we question this, we think it's overpriced, we don't think you should approve it, it's overpriced, they didn't—

Ambassador KENNEDY. The customs experts at the Office of Iraqi Programs did on occasion identify overpriced contracts and informed the 661 Committee, yes.

Mrs. MALONEY. And what happened when it got to the 661 Committee? Did they block it because it was overpriced? Or did they approve it?

Ambassador KENNEDY. We held on some and did not hold on others.

Mrs. MALONEY. I think we need to look at that to see——

Ambassador KENNEDY. Let me provide a more detailed explanation for the record, because it would take me a number of minutes to try to go through that entire process.

Mr. SHAYS. We've gone over time, but the Chair did want some continuity of the question and a conclusion. I think we've reached a certain point where I would now like to recognize Mr.——

Ambassador KENNEDY. And I will be glad to provide that for the record.

Mrs. MALONEY. Absolutely. Because if the internal audit committee was saying it's overpriced, and the 661 Committee, including the United Nations, approved it, then that's a process we've got to stop in the future. Maybe the U.N. Audit Committee should have the authority to stop overpriced contracts, if they so believe.

Mr. SHAYS. Let me gain control of this subcommittee again and call on Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

I would like to continue to followup here on some of these questions with regard to some of the corruption apparently taking place here. The U.N. was auditing these along the way, Mr. Kennedy?

Ambassador KENNEDY. The United Nations, both the internal, Office of Internal Oversight Services and the Board of Auditors, were auditing the activities of the United Nations staff.

Mr. MURPHY. OK.

Ambassador KENNEDY. They were not empowered by the resolution to audit the contracts themselves.

Mr. MURPHY. Was anybody auditing them?

Ambassador KENNEDY. The contracts themselves?

Mr. MURPHY. Yes.

Ambassador KENNEDY. The contracts would be received, as I said——

Mr. MURPHY. Just was anybody auditing them?

Ambassador KENNEDY. They were reviewing, they were reviewing them. If the contract jumped up as outside credible range, that was called to attention. We also sent, all the contracts were sent——

Mr. MURPHY. But as you're saying, what Saddam Hussein was clever with is, he was able to slip in things to stay under the radar screen essentially with that?

Ambassador KENNEDY. The margins were so small and making it up on volume, sir.

Mr. MURPHY. So that could perhaps be the reason why these audits were not, whatever was being reviewed, audits for the U.N. or in other essence, no one really knew what was going on with this corruption.

Ambassador KENNEDY. We had no, this was like a chess game, if I might. We knew Saddam Hussein was up to no good. He would take a step and then we would move to block him. He would take another step and we would move to block him. But since this was an episode or activity carried out by 15 member states, 15 independent countries on the 661 Committee, one example, sir, if I might. We discovered because U.N. personnel brought it to our attention that he was manipulating oil prices. So we moved to block him on that. Several other countries in the 661 Committee resisted our efforts, so rather than blocking at the beginning, we blocked at the end and achieved the same results.

So this was a constant, he moved, we moved——

Mr. MURPHY. OK, but whenever things showed up during this chess game, that corruption began to emerge, why didn't we look more closely? Why didn't the U.N. step in and try to hit this harder?

Ambassador KENNEDY. Because the United Nations, in this case, is not the U.N. Secretariat. The U.N. is the 15 members of the Security Council——

Mr. MURPHY. Then let's look at the Security Council, because I want to find out, because oftentimes I think the American people have a misunderstanding about the purity of the Security Council's motives. And I want to understand here very clearly. When we look at who was involved with purchasing oil that the Iraqis were also using to gather cash from and there were some things going on, according to some of the records, a quarter of the companies who purchased oil, they were mostly Russian and they paid cash. I also understand small oil traders were often required to buy illicit vouchers through middlemen in the United Arab Emirates in order to get the opportunity to buy Iraqi oil. Sometimes the vouchers were also received as payment for importing illicit goods into Iraq.

Among those listed were individuals, political parties and groups from over 50 countries, the bulk of whom were Russian, French, Malaysian, Chinese, Syrian, Egyptian, Swiss, Jordanians, Turkestani and Yugoslavians were also on the list. These are members of the Security Council. Clearly I'm questioning the purity of their motives too. And with that, perhaps a reason why the Security Council had their feet in concrete is because someone's making a lot of money on this from the Security Council.

Ambassador KENNEDY. I'm not sure that I can ascribe all the motives that an individual country might have had, sir. I think in one instance, to some extent, it must have been driven by commercial considerations of various companies that were nationals of the country involved.

I think another aspect could be that a number of these countries, Russia, for example, never did like the sanctions on the regime in the first place, and they were strong advocates of removing sanctions in toto, rather——

Mr. MURPHY. They resisted many efforts of sanctions or other actions against Iraq, but the French, the Russians, the Chinese, are among those groups that were certainly making a great deal of oil purchases. And part of this network, explicit or implicit in their actions, that allowed the Saddam Hussein repressive regime to con-

tinue to have cash that he could use for his other purposes, other than the more magnanimous issue of Oil-for-Food.

Ambassador KENNEDY. You're correct, sir. Resolution 1284, which was the last major Oil-for-Food resolution, which was adopted in 1999, on that resolution France, China and Russia abstained, because they objected to the whole sanction regime.

Mr. MURPHY. Did they disclose their financial advantages that they had in terms of their purchasing oil? Did they abstain just because they were good guys, or did they say, you know, we need to abstain because we're actually buying oil illicitly here?

Ambassador KENNEDY. There were no admissions by state of illicit activities.

Mr. MURPHY. Where my questions are going to, as you can see, is with the U.N. not really clearly auditing this, that as corruption was disclosed, questions why weren't they looked at more closely, this is not even to the level of fox watching the henhouse. This is much more serious than that, when we had other nations who were in collusion, perhaps, of purchasing oil and adding money to Saddam Hussein which he then could use to continue his oppressive, tortuous and murderous regime within his own country. Am I correct in that?

Ambassador KENNEDY. The oil contracts themselves were regulated to the extent that we could. But I cannot tell you that efforts were not made by individuals or companies to bust the sanctions. That is a fact, sir, you are correct. There are individuals and companies that busted the sanctions.

Mr. MURPHY. So within these countries, there is active behavior, within these other countries they are actually undermining the purposes of the sanctions. The purposes of the sanctions would be humanitarian and help feed the people within Iraq. But you're saying their behavior actually undermined that?

Ambassador KENNEDY. What I'm saying is that I can't myself—

Mr. MURPHY. Would anyone else like to comment?

Ambassador KENNEDY [continuing]. Because I have no direct knowledge, ascribe the cause of an action by any one country. But I can just say that there were situations where we discovered efforts to go around the Oil-for-Food program, and the purpose of the United States and the United Kingdom was to do everything possible to block that activity.

Mr. MURPHY. I only have a minute left. When I was in Iraq and I had talked with some of the citizens, some of the things that came up had to do with how they were so totally dependent upon the Hussein regime, the oppressive Hussein regime, for their food, delivering groceries. It's not something, you can't go to the grocery store like we do in America. It's that, if you behaved yourself, you got your groceries. It was one more way that he maintained his total dominance upon their lives.

And I find that any time we here in Washington, DC, talk about somehow the magnanimous motives or somehow the objective motives of the Security Council of the United Nations, I think this really calls into serious question the behavior of characters within those countries who are on that Security Council and the outcome in terms of the poor auditing and the poor investigations into this.

I think it's a really serious matter, and I think some of the things that speak to are my ongoing concerns about the trustworthiness of the U.N. to run a program like this.

Ambassador KENNEDY. If you remember, sir, the U.N. is the member states in this case, not the U.N. Secretariat. There's a distinction.

Mr. MURPHY. I understand.

Ambassador KENNEDY. The second is, we have to keep going back and recalling the purpose of the sanctions regime. It was to prevent Saddam Hussein from receiving banned materials.

Mr. MURPHY. But the member states, or people within those member states, were undermining that.

Ambassador KENNEDY. There were efforts in the 661 Committee to thwart the United States and the United Kingdom from imposing more rigorous sanctions, yes.

Mr. MURPHY. To me that smacks of directly undermining the intent of the Secretary General and also the U.N. intentions. Thank you very much. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. At this time, the Chair would recognize Mr. Ruppertsberger.

Mr. RUPPERSBERGER. Thank you, Mr. Chairman.

Ambassador Kennedy, you stated on page 4 of your testimony that, "We know there was abuse," and you point to documented proof since the Saddam regime fell. Now, I think this is a very important issue now, that we focus on the evidence and authenticate the evidence on whether or not these allegations are true. Let's get to the bottom line.

Let me start with these questions. Can you tell us who found these documents that you're referring to? And I'm looking forward to the fact that you will produce these documents. I assume not in their original form, but these documents to us that we can evaluate. Can you tell us who found these documents, where did they come from?

Ambassador KENNEDY. I think documents are coming forward from multiple sources. But basically, sir, they are surfacing in Baghdad. As Ambassador Raphel testified earlier, and she was out working with the Ministry of Trade as the CPA was stood up in May of last year, and began working with Iraqi ministry officials, the third or fourth tier down, the Baath party leadership having fled, we began to receive intimation and indications from working level Iraqis in the various ministries that said there were abuses. And they identified for us how Saddam Hussein was using the kickback scheme, how Saddam Hussein—

Mr. RUPPERSBERGER. I want to be more specific. I understand where you're going. Who is making the allegations of bribes, kickbacks, surcharges and the like? Is it coming from the Iraqi Governing Council? Is that where most of this is coming from? You're saying it's in Iraq, there in that leadership mode. Where is this coming from, that we can evaluate the evidence?

Ambassador KENNEDY. The allegations against U.N. personnel are two-fold. One was an article published in a newspaper in January called Al-Mada, which listed a number of individuals who are accused of having received vouchers to permit them to buy oil. And there was the name of one U.N. individual on that list. And there

was a piece in the New York Times just this morning without a name or any more details, just saying there are rumors running around that two more were involved.

So these accusations are coming out of Baghdad, out of one particular newspaper—

Mr. RUPPERSBERGER. Yes, and in all fairness to newspapers, I mean, we have some very good newspapers and very credible reporters. But I'm not sure of the credibility of an Iraqi newspaper. I want to get down to the basics as much as we can. In what form are these allegations coming?

Ambassador KENNEDY. They are unsubstantiated allegations provided without any evidence—

Mr. RUPPERSBERGER. Well, I'm glad you said that, because now I'm concerned that we're getting unsubstantiated allegations from an Iraqi newspaper. We have to do whatever we can to authenticate the data and information and the evidence. Because these have implications throughout the entire world, the credibility of the entire world, especially at a time that we need the world to come together to fight terrorism.

Ambassador KENNEDY. I agree, sir, and we are pursuing that, I believe. This is being pursued on two tracks. The first is, Ambassador Bremer has authorized the Board of Supreme Audit of Iraq, he has provided funds available for them to hire an international firm that is experienced in investigations and audits to look into these accusations on the ground in Iraq. He has also ordered all the records to be sequestered and made safe. Second, there is the examination that the Secretary General of the United Nations has commissioned under Mr. Volcker. So this, the United States, the CPA, the U.N. Security Council, the Secretary General himself, are all committed to pursuing exactly what you said, sir, which is follow the trail to prosecution.

Mr. RUPPERSBERGER. Right, follow the trail, and that's where I'm focusing my question. Have these documents, to your knowledge, been authenticated?

Ambassador KENNEDY. To my knowledge, no, sir.

Mr. RUPPERSBERGER. OK. How about, have they been corroborated at all?

Ambassador KENNEDY. Sir, I am not a lawyer. I know what Ambassador Bremer is doing. He is bringing all the documents together so they can be investigated.

Mr. RUPPERSBERGER. Right. OK. I have respect for Ambassador Bremer, he's leaving, I know that, in the transition. I would hope that the documents that were referred to in the newspaper would be looked at. Because I know, through my investigation on another committee that I'm on, that we do have black market documents. I just think we have to find out where the allegations came from, who is putting it out. It appeared in a newspaper, and so far it seems that the whole United States and the world is going to be a very large issue about the credibility of the U.N.

And by the way, we need to look at all these allegations, but we have to follow the evidence. And right now, it seems to me from what you're saying today, the evidence is coming from a newspaper. We haven't corroborated anything, we don't know if they're black market documents. I think we have a long way to go.

And I don't know about a private firm that Bremer has hired. I think the United States of America needs to get some of our investigators, which we have, the FBI and other government agencies, to get hold of this to make sure we secure this documentation and then find out who started it, where did it come from. I don't think you can answer that question now, is that correct?

Ambassador KENNEDY. Sir, we must do a fair and exhaustive effort to track it down. And that is why the process is now started. That's why Ambassador Bremer I believe is particularly focused on using the Board of Supreme Audit of Iraq, which is a continuing function, a function that will continue to exist after July 1, supplemented by assistance from the CPA and supplemented by an internationally known independent firm.

Mr. RUPPERSBERGER. Are you familiar with the black market documents that we know, we've established that exist following the fall of Saddam's regime? Are you aware of those, some black market documents that have been used in Iraq? I mean, answer the question. If you don't, that's fine.

Ambassador KENNEDY. I can't answer that specific question, sir.

Mr. RUPPERSBERGER. OK, well, if you just heard, that's fine.

Anyone else on the panel? Ambassador Raphel, you haven't been able to talk so far. Would you like to comment on some of the issues I have raised so that we can try to get, follow the evidence and get to the facts? Because the more I'm hearing, we're in the very preliminary stages of these allegations that are going to make worldwide news. And right now, our focus has got to be on this terrorism and bringing the world together to fight terrorism, and not allegations and credibilities of Iraq or United Nations or whatever.

But if the evidence shows that there were problems, and whenever this kind of money, I'm sure there were problems, we've got to get to that. And let's get the facts. Any response?

Ambassador RAPHEL. If I just might clarify on a couple of points, the concrete allegations of kickbacks in the contracts on the ground in Baghdad came from Iraqi civil servants coming forward and saying, this contract, that contract has a kickback in it. And they explained the system to us and so on.

But we did not at that point have documentation. We did not see these particular documents. We made a decision, which underscores how, the conditions under which we were operating. We couldn't verify each of these kickbacks, percentages of whatever. But we made a decision to take these Iraqi civil servants' word for it, basically. And when the U.N. agencies called the supplier and said, hello, supplier, we would like to negotiate the overall price of the contract down by 15 percent, is that OK, rumble, rumble, rumble, yes, I guess so, end of story.

We were not working from precise documentation at that point. I want to put that on the record. But these people came forward and this fit, I was pleased to say later, we get the DCMA, DCAA pricing study which was consistent with what we were hearing from the Iraqi civil servants. So that gave extra comfort that we were on the right track. But we were under enormous time pressure to deal with these contracts. There were 6 months from the passage of 1483 to when the Oil-for-Food program would end. So we were making practical decisions as best we could.

Ambassador KENNEDY. But I want to say, Robin and I have discussed this extensively, however, when you get to specific allegations that a specific individual is guilty of something, we need to follow the trail——

Mr. RUPPERSBERGER. My time is up. What my bottom line is that right now we seem to be in a very preliminary stage. There's a lot of allegations and outright just indignation, as there should be, if these allegations are out there. But before we go too far down the road, let's find out who made these allegations, where it came from, are these documents for real, have they been forged. I mean, this is just evidence 101. And we haven't gotten to that level yet. I'm concerned that this is going to have an impact on credibility of those countries involved in hopefully the war against terrorism. And that's the issue here in the end, that's what we're all here about as far as our testimony here today and what's going on in Iraq.

Anyone else on the panel have any comments about that? Otherwise, my time is up. Thank you.

Mr. SHAYS. I thank the gentleman. I would like to ask some questions.

Mr. Ose talked about smoke, where there's smoke there's fire question. Do you know enough to conclude, Ambassador Kennedy, that something went wrong?

Ambassador KENNEDY. We know enough to conclude that Saddam Hussein manipulated and abused and broke sanctions, yes, sir.

Mr. SHAYS. Ambassador Raphel, I would ask you the same question.

Ambassador RAPHEL. I would agree with what Ambassador Kennedy said, and also say, I think we know enough to conclude that there were some kinds of kickbacks involved in these contracts. The precise nature, the precise company, the amounts and so on, we don't know, and we need to followup and rigorously investigate that. But I myself am personally persuaded that this kickback regime existed.

Mr. SHAYS. Mr. Thibault.

Mr. THIBAUT. Mr. Chairman, what we know from our snapshot is that there was not a procurement process in place that was typical at all of a normal business process, such as someone clearly defining requirements—now, I'm talking about the snapshot we looked at, commodities purchased with the funds, someone that defined requirements, someone that asked for some kind of documentation to support that, an audit process of those goods and then some form of documented negotiation. When we visited the Office of Iraq Programs, they essentially documented that the normal procurement process that you might want to see, that we certainly were looking for, and that's why we went up there to ask them, did not exist.

Mr. SHAYS. Mr. Ross.

Mr. ROSS. Yes, Mr. Chairman. I think what we have found in the larger effort to try to identify these front companies are crossovers. There's no question of that. Last week, we, the United States and the U.K. jointly designated eight front companies, sent those to the U.N. for adoption. They're still there, I might add. And two of those

specifically were tied to OFF violations with respect to arms and the attempt to illicitly import arms.

So there clearly is a crossover. We clearly have identified some instances of that.

Mr. SHAYS. My response to Mr. Ruppertsberger's questions are that he is dead right in assigning specific blame, but there is no question at all that there was a huge ripoff amounting to billions of dollars. Not a scintilla of doubt that is the fact. The question is, who is responsible.

Now, that ultimately is going to be a question we know needs to be answered. And then we ultimately know that we need to know that it won't happen in the future.

Now, we have a witness that will be coming in our second panel, Mr. Claude Hanks-Drielsma, and his testimony to me is incredible. I want to know, he represents as an advisor to the Iraqi Governing Council. Now, whatever we would like to say in the United States, this ultimately has to be an Iraqi revolution, not an American revolution in Iraq. And the lack of respect that I am sensing we are giving this council is concerning me. The council asked months ago for information, and we are not at all comfortable that they are getting this kind of cooperation.

Now, what I would like to ask each of you is, as panel members, can you assure us that there will be no procedural delays in the report commissioned by the Iraqi governing council? That there will be no delays? And Mr. Kennedy, I'll start with you.

Ambassador KENNEDY. Mr. Chairman, Ambassador Bremer has laid the duty of investigating this activity, the accusations, on the Board of Supreme Audit and has charged them—

Mr. SHAYS. And that is?

Ambassador KENNEDY. The Board of Supreme Audit of Iraq. He has said that the Board of Supreme Audit will be the entity to investigate this activity because they are a group of professional auditors. It is an entity of the Iraqi government, just as you suggest, we need to make this Iraqi involvement very, very clear. And this entity will exist long into the future after the CPA ends its tenure on June 30th. So this is an independent, apolitical continuing body. So he has charged the Board of Supreme Audit to do it and is making personnel and financial resources available to them to do it, sir.

Mr. SHAYS. And you're convinced there will be no procedural delays in the report commissioned by the Iraqi Governing Council?

Ambassador KENNEDY. Sir, Ambassador Bremer has charged the Board of Supreme Audit with doing this. He has not charged the Finance Committee of the Iraqi Governing Council to do it. So I'm answering the question of who is responsible per Ambassador Bremer's instructions for investigating all these accusations. And he has charged the Board of Supreme Audit with doing it.

Mr. SHAYS. Does that mean that they will not be cooperating with KPMG?

Ambassador KENNEDY. I am not aware that KPMG has been hired by anyone, sir.

Mr. SHAYS. OK. Let me ask you, Ambassador Raphael, about cooperation with the Iraqi Council.

Ambassador RAPHEL. What I would say in response to your original question and your concern about procedural delays, I don't think we see any reason right now to expect procedural delays in the investigation that Ambassador Bremer has given to the Board of Supreme Audit. But I would again, from the on the ground perspective, say that there are many, many issues about evidence files and so on. As you know, many of the ministry buildings were looted, files are not complete. It takes a lot of time right now to move around Baghdad.

So I would just caution everyone to recognize that this is going to take some time. But there is no reason that I see to expect procedural delays. My former colleagues there have been working with the Board of Supreme Audit. They have visited every ministry, they are sequestering files in a single place in the Ministry of Oil. Work is going on.

Mr. SHAYS. What concerns me is, in the desire to make sure we not offend the U.N., or not offend our partners who we want involved, we have an incredible temptation to not allow the Iraqi people to get to the bottom line of the story. That is my biggest concern, to know how eager our Government is going to be to encourage cooperation with the Iraqi Governing Council or whatever other government takes its place.

Mr. Thibault and Mr. Ross, can you speak to this issue at all?

Mr. THIBAUT. I can tell you that no one has asked DCAA to share or present our audit results with the Iraqi Governing Council. If DOD asks or approves us to do that, we would have no issue in sharing that.

Mr. ROSS. I would echo that. We have interviewed over 100 people from top to bottom in Iraq involved in financing of the Hussein regime. We've identified thousands of accounts worldwide. That information will be available as appropriate, to the extent we can share it.

Mr. SHAYS. Thank you.

I'm going to ask unanimous consent to insert into the record a letter to the subcommittee from His Excellency Jean-David Levitte, Ambassador of France to the United States, dated April 19, 2004, regarding the Oil-for-Food program. He wrote us the letter, asked us to submit his letter and an article he had written, in this case to the Los Angeles Times. I don't have time to make reference to it, but there are parts of it I would like to.

[The information referred to follows:]

20/04 TUE 11:28 FAX

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*Ambassade de France
aux Etats-Unis*

*L' Ambassadeur
N°797*

Washington, April 19, 2004

Dear Mr. Chairman,

In advance of Wednesday's Subcommittee on National Security, Emerging Threats and International Relations hearing on the United Nations "oil-for-food" program in Iraq, I wanted to share with you the enclosed op-ed piece that I wrote on the subject, which was published in the Los Angeles Times on April 7.

As a former French Ambassador to the United Nations, I have seen from the inside how the oil-for-food program was managed. I am aware that my country has been criticized in some instances for opposing tighter rules. Further, it has been suggested that France was somehow complicit in irregularities or illegal activities pertaining to the oil-for-food program. Both of these allegations are unfounded, and please allow me to clarify a few facts that might be of interest to you.

First, the oil-for-food program was closely monitored by the members of the UN Security Council. Every single contract for every humanitarian purchase was formally approved by the 15 members of the Security Council, including France, the United States, and Great Britain. Only the United States and Great Britain had expressly asked to see each complete contract. As a result, they were in the best position to know of any abuses or malfeasance. In fact, the American and British delegations never put a contract on hold on the grounds of a commercial malpractice, such as an illegal kickback.

.../...

Enclosure :

*The Honorable Christopher Shays
Chairman - National Security, Emerging Threats
and International Relations - Subcommittee
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Let me add that France was not a "major beneficiary" of this program as French contracts accounted for only 8% of the total, its share declining to less than 2% in 2002. Furthermore, France was never a major destination for Iraqi oil. In 2001, only 8% of Iraqi oil was exported to France. Additionally, many "French" contracts were, in fact, contracts from foreign companies going through their subsidiaries and agents in France. American companies submitted more than \$200 million worth of contracts through their French subsidiaries from the beginning of this program in 1996 to its end in 2003.

French authorities strongly support the independent inquiry set by the United Nations. We need to find out whether the allegations of corruption and bribery are true.

Let me add that I am concerned that these allegations, discrediting the United Nations are voiced at a time when a return of the United Nations to Iraq is being considered, and when we are all trying to work together to improve the situation in Iraq and to help the emergence of a sovereign and stable Iraq. I frankly don't understand why such finger-pointing is taking place now. But I am confident that the independent UN inquiry will establish the truth.

I would be pleased to further discuss this matter with you and other interested Members and I stand ready to answer any additional questions you might have.

With best regards,

Yours Sincerely,



Jean-David Levitte



FRANCE/UNITED STATES/IRAQ

Op ed of French ambassador to the United States, Jean-David Levitte in the Los Angeles Times.

Washington , April 7, 2004

First 'Freedom Fries,' Now Oil-for-Food Lies: Give France a Break

A year ago, when the question of military intervention to disarm Iraq was raised, my country strongly opposed such a step, convinced that Iraq was not an imminent threat to world peace and had no link to Al Qaeda, and that the consequences of a war needed to be seriously weighed.

At that time, France's position, which was shared by many countries and a number of Americans, was widely disparaged. Although there were many signs of friendship extended to me from individual Americans, for which I am very grateful, there were also many false accusations spread in public to discredit France.

Since then, the diplomatic hurricane has abated. Today, we all understand the importance of what unites us, from our common fight against terrorism to our presence side by side in regional conflicts in Afghanistan, Haiti, Kosovo and elsewhere.

Consequently, I have been deeply surprised in the last few days to see a new campaign of unfounded accusations against my country flourish again in the media. These allegations, being spread by a handful of influential, conservative TV and newspaper journalists in the U.S., have arisen in connection with a recent inquiry into the "oil for food" program that was run by the United Nations in Iraq during the final years of Saddam Hussein's government.

These allegations suggest that the government of France condoned kickbacks — bribes, in effect — from French companies to the Iraqi regime in return for further contracts. They say Paris turned a blind eye to these activities. Let me be absolutely clear. These aspersions are completely false and can only have been an effort to discredit France, a longtime friend and ally of the U.S.

As the former French ambassador to the U.N., let me explain how the oil-for-food program worked. Created in 1996, it was intended to provide Iraqis with essential goods to alleviate the humanitarian effect of the international sanctions that remained in place. The program authorized Iraq to export agreed-on quantities of oil, and allowed money from the sales to be used for food and other necessities. The program was managed by the U.N. and monitored by Security Council members.

Between 1996 and the end of the program in 2003, every contract for every humanitarian purchase had to be unanimously approved by the 15 members of the Security Council, including France, Britain and the U.S. The complete contracts were only circulated to the U.S. and Britain, which had expressly asked to see them and would have been in the best position to have known if anything improper was going on. Though a number of contracts were put on hold by the American and British delegations on security-related grounds, no contract was ever held up because malfeasance, such as illegal kickbacks, had been detected.

Was there corruption and bribery inside the program? Frankly, I don't know. Iraq was not a market economy; it was under sanctions at the time. Customs experts had little choice but to assume that the prices set by outside companies were "reasonable and acceptable," a criterion of acceptance used by the U.N. secretariat, and they

had no way of checking whether some contracts were overpriced.

That is why France fully supports the independent inquiry set up by the U.N. The truth must come out. Was France a major beneficiary of oil-for-food contracts, as several conservative columnists have claimed recently? Definitely not. From the beginning of the program to its end, French contracts accounted for 8% of the total. We were Iraq's eighth-largest supplier. In addition, throughout the program a sizable proportion of the contracts dubbed "French" were in fact contracts from foreign companies using their

French branches, subsidiaries and agents. Among them were U.S. firms providing spare parts for the oil industry (including several subsidiaries of Halliburton). They submitted contracts through French subsidiaries for more than \$200 million. It is also suggested that the money from the oil-for-food contracts passed exclusively through a French bank, BNP Paribas. Wrong again: 41% of the money passed through J.P. Morgan Chase Bank, which, like BNP, was contracted by the U.N. with the approval of Security Council members.

This leaves us with one remaining accusation: that the French positions on the oil-for-food program and Iraq in general were driven by the lure of oil. Yet France was never a major destination for Iraqi oil during the program. In 2001, 8% of Iraqi oil was imported by France, compared with 44.5% imported by the U.S., which was the No. 1 importer all along.

At a time when the U.N. is considering a return to Iraq, and we all agree on the need for close international cooperation to help a sovereign, stable Iraq emerge, I don't understand this campaign. Or the hidden agenda behind it.

Embassy of France in the United States - April 7, 2004

Mr. SHAYS. Did you have one or two quick questions? How much time before we have a vote?

Mr. WAXMAN. Well, there's a vote on, but that was just the first bell.

Mr. SHAYS. OK.

Mr. WAXMAN. Thank you, Mr. Chairman.

Ambassador Kennedy, I would like to clarify one point we discussed. My staff contacted the CPA to ask about plans to hire a certified public accounting firm to audit the DFI. Here's how CPA responded, at least to us: "CPA did not obtain the services of a certified public accounting firm, as it was determined that these services were not those required." CPA does mention that they hired a consulting firm, but they say they decided at some point not to hire an independent certified public accounting firm.

Do you know why CPA decided not to hire an independent certified public accounting firm, even though regulation No. 2 required this?

Ambassador KENNEDY. No, sir, I left Baghdad on the last day of November. I will have to get that for you from the record.

We did hire a company, as you mentioned, sir, to set up and to help CPA set up the books and maintain the records and make sure that we were following all the proper procedures, so when the audit was undertaken by the International Accounting and Monitoring Board we would have all the material and all the proper documentation that was required. I believe that has been done.

Mr. WAXMAN. CPA says, "It was determined these services were not those required." What specific services are now not being done?

Ambassador KENNEDY. I will have to get that for the record, sir.

Mr. WAXMAN. And under the contract with the consulting firm North Star, will there be a final product, a deliverable that shows whether there has been overcharging? Are they going to issue a report?

Ambassador KENNEDY. I will have to get that for the record for you, sir.

Mr. WAXMAN. OK. And would you also, if such a report is going to be issued, I would like to see a copy of that work product, whether it's a report or any other work product.

And finally, Mr. Thibault, you mentioned one kind of audit. Can you tell us, what would CPA need to do to conduct a full scale, full blown audit of the DFI?

Mr. THIBAUT. I think they would have to write a statement of work, define what they want to do and probably engage an external auditor. But they would probably have to do both a source and application of funds, meaning where were the sources of the funds, and where was the application. That would probably have to include an evaluation of those companies that received the funds and whether they were properly applied.

So in order to do that kind of an audit, that's an extensive audit, but that would be a complete audit, in my view.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. RUPPERSBERGER. Quick question. Does anyone on the panel have knowledge of who owns the Al-Mada newspaper? That's the newspaper that this investigation started, or the allegations were made, correct? That's the beginning of the allegations.

Mr. THIBAUT. No knowledge, sir.

Mr. SHAYS. OK. Any knowledge?

Ambassador KENNEDY. No knowledge, sir. We'll attempt—there were I believe some 300 new newspapers—

Mr. RUPPERSBERGER. Well, if I tell you that I have information that Chalabi owned the newspaper, would that refresh your recollection at all?

Ambassador KENNEDY. No, sir. I would be glad to get—I would be glad to query—

Mr. RUPPERSBERGER. Well, I would ask you if you could to find out who owns that newspaper, and whether or not the information that I have that Chalabi does own the newspaper, who is one of the leaders on the Iraqi Governing Council, I think that's very relevant.

Mr. SHAYS. I thank the gentleman.

I'm just smiling because I took great joy in the fact that in Iraq, there was a newspaper that was making allegations. It's putting the ball in play. But you know, darn it, it's happened in Iraq. Welcome to the Iraqi revolution.

With that, I want to thank each of you. You've been a wonderful panel, you've been very patient. We have two panels to follow. Stay tuned. The other panelists, I think, will be very interesting and very informative.

So we will recess for a period of five votes. I have a feeling we won't be back here until at least 15 after. So if someone wants to get something to eat, I think you're pretty safe on that.

So we stand in recess.

[Recess.]

Mr. SHAYS. This hearing is called to order.

We recognize our second panel, Mr. Claude Hanks-Drielsma, and welcome him here. He is advisor to the Iraqi Governing Council, he's chairman of Roland Berger, Strategy Consultants, I believed based in Great Britain. He has come to this hearing from Great Britain, so I guess waiting a little bit in the morning is not as big an effort as having gotten here in the first place. So we are going to swear you in, if you don't mind, and we are going to give you 5 minutes and then another 5 minutes. So the light will get red in 5 minutes, but we'll roll it to green again. That's how it works.

So if you would stand. Raise your right hands.

[Witness sworn.]

Mr. SHAYS. Thank you so much, and note for the record that our witness has responded in the affirmative. Again, welcome, and we look forward to your testimony. I've read your written testimony and I found it very helpful.

STATEMENT OF CLAUDE HANKES-DRIELSMA, ADVISOR, IRAQI GOVERNING COUNCIL AND CHAIRMAN, ROLAND BERGER, STRATEGY CONSULTANTS

Mr. HANKES-DRIELSMA. Mr. Chairman and distinguished members of the committee, my written testimony attempts to set out in chronological order the background to and the reasons why the independent investigations into the Oil-for-Food program were ini-

tiated by the Iraq Governing Council and subsequently by the United Nations.

While the remarkable achievements of the United States and its commitments in assisting Iraq to become a vibrant economy are well recognized by the Iraqis, the good intentions of the United States are sometimes misunderstood or misrepresented. A touch of humility and a more democratic consultation with the Iraqis by those administering the U.S. efforts in Iraq would achieve a great deal.

I would like to commend the courage and determination of the IGC, the Iraq Governing Council, as a whole in forging ahead amidst great challenges to build a democratic and stable Iraq. Iraq Governing Council has been much undermined and criticized. It should be noted that it is the most politically broad and demographically representative body in Iraq's history.

From the information available to date, it is clear certainly to me that the U.N. failed in its responsibility to the Iraqi people in administering the Oil-for-Food program during the period 1995 and 2003. You will see that I wrote my first letter to the Secretary General in December, well before the Al-Mada list, which then made it known to the public at large.

The U.N.'s credibility with Iraqis, particularly the Shiite community, is understandably one of unease. And I will try to explain why. The U.N. Oil-for-Food program provided Saddam Hussein and his corrupt and evil regime with a convenient vehicle through which he bought support internationally by bribing political parties, companies, journalists and other individuals of influence. This secured the cooperation and support of countries that included members of the security council of the United Nations, the very body that received over \$1 billion U.S. dollars to administer the program.

This dynamic and conflict of interest is the cancer that lies at the heart of the problem. For as long as members of the security council are party to corrupting the system, the U.N. will remain but a convenient tool for those countries who wish to operate without responsibility and accountability.

The very fact that Saddam Hussein, the U.N. and certain members of the Security Council could conceal such a scam from the world should send shivers down every spine in this room. I recommend to the United States and to Britain that it should institute a complete review of the United Nations, its function and how it might in the future operate with integrity.

The KPMG investigation report, commissioned by the Iraq Governing Council, is expected to demonstrate the clear link between those countries which were quiet ready to support Saddam Hussein's regime for their own financial benefit at the expense of the Iraqi people and those that opposed the strict application of sanctions and the overthrow of Saddam Hussein. The decision by the Iraq Governing Council to commission the KPMG report in current circumstances in Iraq should be seen for what it is, a focused and praise-worthy step to fleck out the truth in the interest of a peaceful and stable Iraq into the future. Only truth and transparency can secure progress.

The KPMG investigation, however, was on hold, due to Ambassador Bremer's intervention, until the Finance Committee completed its due process on Sunday April 18th. On April 18th, the Finance Committee of the Governing Council met and reviewed the submitted tender proposals. They came to the conclusion that the KPMG's proposal was the most competent and suitable for the task. Representatives of the CPA were present at this meeting. And I received communication from the Governing Council this morning that the Governing Council unanimously endorsed the Finance Committee's decision to appoint KPMG and Freshfields.

It is hoped that this report can now proceed without any further delay. But there still is not a firm undertaking that Ambassador Bremer, contrary to the assurance given at earlier discussions, will grant the necessary funding from the Iraq development fund. Any further delay in the preparation of this report instigated by the Iraq Governing Council will have serious consequences. I already believe that the almost 2 month delay may well have contributed to losing evidence necessary.

Governments may also wish to consider how to prevent the abuse of diplomatic immunity to circumvent money-laundering laws that permitted Saddam Hussein to move money around the world. Some may suggest that the above issues only came to light in recent months. That is simply not true. The U.N. Office of Internal Oversight, in two consecutive annual reports, October 2000 and October 2002, to the General Assembly, drew attention to the non-compliance of the Iraq Oil-for-Food program with U.N. best practice in financial and contracting matters.

And on page 4 and 5, I've given two quotes, which I won't read out at this moment. One was by one of the American representatives, Mr. Cunningham of the United States, and the other was from Sir Jeremy Greenstock. Both were in March 2000.

I hope that this demonstrates that the significance of the illegal smuggling and money-laundering was being made known to the Security Council years before Saddam Hussein's regime fell. I hope that the investigations, KPMG's and the United Nations', will uncover why the sanctions committee were unable to reach consensus on how to deal with the smuggling and in practice, what actually happened when the committee decided to keep the issue of oil smuggling under review. The IGC investigation will, I hope, reveal if oil smuggling increased despite the committee's interest after March 2000.

Attached to this written testimony is a diagram which summarizes the different ways that Saddam Hussein's regime raised funds outside the Oil-for-Food program. This is based on limited investigation performed to date and hence may change. However, it demonstrates several issues. First, that there were a variety of different and innovative ways of raising these funds. Second, that at this stage we do not know what these funds were utilized for or who received the benefit of them.

Third, that the funds raised involved the knowing collusion of many entities. These included those which either purchased oil through the official U.N. Oil-for-Food program and paid oil surcharges, either in cash to Iraqi embassies abroad, or transfers to sanction breaking bank accounts controlled by the regime. These

included the those countries which accepted smuggled oil. These include those who supplied medicine, health supplies, food and other materials through the Oil-for-Food program at inflated prices and paid a 10 percent or higher premium in cash, all to sanction breaking bank accounts controlled by the regime.

These included those which supplied inferior goods or good past or near their sell by date, or those which conspired to repurchase the goods back from the regime and pay the regime to sanction breaking accounts. In summary, Saddam Hussein's regime did not raise these funds alone. It did it with the active and knowing participation of a number of countries, which included members of the Security Council, companies and individuals.

Mr. Chairman, members of the committee, I hope this gives you a sense of the magnitude of the problem.

[The prepared statement of Mr. Hanks-Drielsma follows:]

Written Testimony of Claude Hanks-Drielsma, Advisor to The Iraq Governing Council and Chairman of Roland Berger Strategy Consultants Ltd on The Oil-for-Food Program to The Congress of the United States, The Subcommittee on National Security, Emerging Threats, and International Relations - *The Iraq Oil-for-Food Program: Starving for Accountability*

21 April 2004

Contents

A. Summary:	3
B. Background:	6
C. 5th December 2004 - First letter to The Secretary General:	7
D. 2 February 2004 - Second letter to The Secretary General.....	8
E. Appointment of KPMG and Scope of Investigation:	9
F. 3 March 2004 - Third letter to The Secretary General:	11
G. 26 March 2004 - Letter from Iraq Governing Council to The Secretary General:	12
H. Delay in KPMG/Process:	13
I. 26 March 2004 - IGC Invitation to Tender:	14
J. 5 April 2004 - Letter to Ambassador Paul Bremer:	16
K. 6 April 2004 - CPA confirmation to the press that IGC Tender would stand:	17
L. 9 April 2004 - CPA Invitation to Tender:	18
M. Oil-for-Food Programme Overview	20

21st April 2004

A. Summary:

Mr. Chairman, distinguished members of the Committee. My written testimony attempts to set out in chronological order the background to, and the reasons why, independent investigations into The Oil-for-Food Program were initiated by The Iraq Governing Council and subsequently by the United Nations. While the remarkable achievements of the US and its commitment in assisting Iraq to become a vibrant economy are well recognised by the Iraqis, the good intentions of the US are sometimes misunderstood or misrepresented. A touch of humility and more democratic consultations with the Iraqis by those administering the US efforts in Iraq would achieve a great deal

1

I would first like to commend the courage and determination of the IGC as a whole in forging ahead, amidst great challenges, to build a democratic and stable Iraq. The IGC has been much undermined and criticised. It should be noted that it is the most politically broad and demographically representative body in Iraq's history.

2

From the information available to date, it is clear that the UN failed in its responsibility to the Iraqi people in administering the Oil-for-Food program during the period 1995 to 2003. (See Letter to Secretary General, Page 8). NGOs have confirmed that at times the food delivered was unfit for humans and medicine was often out of date. Much of the corruption and mismanagement under the almost 64 billion dollar Oil-for-Food program could have been prevented through transparency and had the UN recognised the importance of public accountability. The UN's credibility with Iraqis, particularly the Shia community, is understandably one of unease and I will try to explain why.

3

The UN Oil-for-Food programme provided Saddam Hussein and his corrupt and evil regime with a convenient vehicle through which he bought support internationally by bribing political parties, companies, journalists and other individuals of influence. This secured the cooperation and support of countries that included members of The Security Council of the UN, the very body that received over 1 billion US dollars in fees to administer the Oil-for-Food programme. This dynamic and conflict of interest is the cancer that lies at the core of the problem. For as long as members of The Security Council are party to corrupting the system, the UN will remain but a convenient tool for those countries who wish to operate without responsibility and accountability. The very fact that Saddam Hussein, the UN and certain members of The Security Council could conceal such a scam from the world, should send shivers down every spine in this room today. I recommend to the United States and Britain that they should instigate a complete review of the UN, its function and how it might operate effectively and with integrity.

4

The KPMG investigation report, commissioned by the ICG, is expected to demonstrate this clear link between those countries which were quite ready to support Saddam Hussein's regime for their own financial benefit at the expense of the Iraqi people and those that opposed the strict application of sanctions and the overthrow of Saddam

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Hussein. The decision by the IGC to commission the KPMG report in current circumstances in Iraq should be seen for what it is, a focused and praise-worthy step to fleck out the truth in the interest of a peaceful and stable Iraq into the future. Only truth and transparency can secure progress.

1

The KPMG investigation however was on hold, due to Ambassador Bremer's intervention, until the Finance Committee completed its due process on Sunday 18 April. On April 18, the Finance Committee of the Governing Council met and reviewed the submitted tender proposals. They came to the conclusion that KPMG's proposal was the most competent and suitable for this task. Representatives of the CPA were present at this meeting.

2

It is hoped that this report can now proceed without any further delay but there still is not a firm undertaking that Ambassador Bremer, contrary to the assurance given at earlier discussions, will grant the necessary funding from the Iraq development fund. Any further delay in the preparation of this report instigated by the IGC will have serious consequences. The due process and appropriate way forward was almost jeopardised by the CPA and was an example where Iraqi officials and members of the Finance Committee of the IGC were not properly consulted and there was a lack of transparency. The United States Government, with its remarkable and admirable commitment to Iraq, can and should try and redress some of these concerns.

3

Governments may also wish to consider how to prevent the abuse of diplomatic immunity to circumvent money-laundering laws that permitted Saddam Hussein to move money around the world. The time has come for Governments to review whether it remains appropriate that those with diplomatic immunity are free to circumvent money laundering laws, regulations and controls. Saddam Hussein operated one of the most sophisticated money laundering systems ever seen and the full extent of this will emerge from the report instigated by the IGC. Saddam Hussein's regime exploited the banking systems of those countries where anti-money laundering controls appear to have been extremely weak. Given the efforts of bodies such as the Financial Action Task Force to defeat terrorist financing, these weaknesses will have to be addressed to ensure that those parties whose interests conflict with all of ours are not allowed to exploit them in the future.

4

Some may suggest that these issues only came to light in recent months. That is simply not true. The UN office of Internal Oversight in two consecutive annual reports, October 2000 and October 2002, to the General Assembly drew attention to the non-compliance of the Iraq Oil-for-Food Program with UN best practice in financial and contracting matters.

5

May I give you two quotes from meetings of the UN Security Council. The first from Mr. Cunningham of the United States:

"As Council delegations heard in the Multinational Interception Force briefing to the sanctions Committee yesterday, hundreds of millions of dollars' worth of gas oil are being smuggled out of Iraq, with the proceeds going not for oil-for-food humanitarian imports but to the regime and its cronies"

6

The second from Sir Jeremy Greenstock of the United Kingdom:

"The Committee has also heard convincing evidence that smugglers are also exporting oil through other neighbouring States including Turkey. The potential revenue from all these operations must now exceed \$1 billion per year. Instead of being used to rebuild a hospital in Baghdad or provide clear water for a village, this money is being spent by Saddam Hussein's regime for the sustenance and comfort of the Iraqi elite and military".

1

Both were from 24 March 2000. The UN Security Council Sanctions Committee established by resolution 661 produced annual reports commenting on compliance with the sanctions. In its annual report dated 27 July 2001, over a year after the comments from the US and UK representatives, under the heading "Monitoring arrangements and reported violations" it included the following:

2

"At its 194th meeting on 17 March 2000 the committee discussed a communication from the United States concerning illicit export of petroleum and petroleum-derived products by Iraq through the Persian Gulf. No consensus emerged on how to deal with the issue. At its 196th meeting on 20 March 2000 the committee received a briefing from the Coordinator of the Multinational Interception Force (MIF) on the MIF's activities in the Gulf region where it was noted that there had been an increase in smuggling activities during the previous year. The committee decided to keep the issue of oil smuggling under review".

3

I hope this demonstrates that the significance of the illegal smuggling and money laundering was being made known to The Security Council years before Saddam Hussein's regime fell. I hope that the investigations will uncover why the Sanctions Committee were unable to reach a consensus on how to deal with the smuggling and in practice what actually happened when the Committee "decided to keep the issue of oil smuggling under review". The IGC investigation will, I hope, reveal if oil smuggling increased despite the Committee's interest after March 2000.

4

Attached to this written testimony is a diagram which summarises the different ways that Saddam Hussein's regime raised funds outside of the Food For Oil programme. This is based on the limited investigations performed to date, and hence may change. However it demonstrates several issues.

5

First, that there were a variety of different and innovative ways of raising these funds.

6

Secondly, that at this stage I do not know what these funds were utilised for or who received the benefit of them.

7

Thirdly, that the funds raised involved the knowing collusion of many entities. These included those which either purchased oil through the official UN Oil-for-Food program and paid oil surcharges either in cash to Iraqi embassies abroad or transfers to sanction-breaking bank accounts controlled by the regime. These included those countries which accepted smuggled oil. These included those who supplied medicine, health supplies,

8

food and other materials through the Oil-for-Food program at inflated prices and paid a 10% or higher premium in cash or to sanction breaking bank accounts controlled by the regime. These included those which supplied inferior goods or goods past or near their sell by date or those which conspired to repurchase the goods back from the regime and pay the regime to sanction breaking accounts. In summary, Saddam Hussein's regime did not raise these funds alone, it did it with the active and knowing participation of a number of countries, which included members of The Security Council, companies and individuals.

B. Background:

In December 2003, I became an advisor to the IGC. My role is to provide independent advice. I do not represent the British Government nor for that matter, any other member of the Coalition. At times my advice may conflict with views of members of the Coalition. The CPA may resent the fact that the IGC obtains independent advice, outside their direct control.

My appointment was made by the Finance Committee of the IGC, which is chaired by Dr Ahmed Chalabi. I first became involved with Iraqi matters at the end of the Iran-Iraq war through the Allawi family. At that time I agreed to meet with the US Government to discuss Iraq policy, which at that time was to support Saddam Hussein. This was also very much the Saudi and Jordanian view and coincided with and supported the US fear of the unknown. My efforts in trying to reverse this policy did not succeed. These countries continue to influence policy on Iraq to this day. Jordan became economically dependent on Iraq under the Saddam Hussein regime.

In December 2003, on my first visit to Baghdad I became aware of the extent of the United Nations Oil-for-Food problem. It was during this visit that I was also shown a list of non-end users who purchased crude oil through the UN approved program, not by smuggling. For clarification, non-end users are those purchasers of crude oil who do not themselves own a refinery. BP would be an end user as it owns many refineries, a brass plate company from Panama would be a non-end user. This list had been prepared by highly competent Iraqi Government officials in Iraq ministries from existing files. Iraq civil servants kept meticulous records and all its transactions were recorded cross-referenced and had the appropriate approvals. While the list included many bona fide oil traders there were many names which raised questions. It suggested a pattern of buying influence through those with political influence within their own countries. The list included an official at the UN and individuals such as the former French Ambassador to the UN. That this might have happened and the magnitude of the problem and its implications was a shocking revelation. What adds to my concerns is that because these purchases were through the UN approved program, all such contracts were approved by the UN as indeed were the contracting parties while at the same time countries that became heavily indebted to Iraq included members of The Security Council.

The implication for the UN were clearly very serious and the effect that it might have on any role in the future unless it addresses these concerns ruthlessly. My initial decision was to try and meet with Ambassador Bremer but after four calls to his office and not having received any response I decided to dictate from Baghdad an email to the Secretary-General of the United Nations dated 5th December 2003 (Page 8).

Sanctions more often than not, do not affect a regime itself but bring great suffering to the ordinary people, in this case Iraq. The world should take note how the sanctions against Iraq contributed to the suffering of the peoples of Iraq.

C. 5th December 2004 - First letter to The Secretary General:

QUOTE:

Content of letter from Mr. Claude Hanks-Drielsma to The Secretary General.

I am in Baghdad this week to help and advice Ministers of the Governing Council. I made a courtesy call to Sir Jeremy Greenstock, offered to see Mr. Bremer but his schedule did not allow. I had no formal meetings with the CPA but my path has crossed several of its members.

1

As a result of my findings here, combined with earlier information, I most strongly urge the UN to consider appointing an independent commission (to perhaps include a QC and a top accountant) to review and investigate the "Oil-for-Food Programme". The purpose being to identify and bring to account those that violated and profited by it or flaunted UN sanctions and in certain cases, I suspect, profiteer because and through sanctions. Were the UN to undertake this they would take the moral high ground and the initiative in demonstrating to the world that those guilty will be brought to account. It would be a most powerful message for the future.

2

Failure to do so might bring into question the UN's credibility and the public's perception of it.

3

The UN might also consider what action it can take with those countries not acting in good faith at the present time and with funds still held resulting from the "Oil-for-Food Programme."

4

My belief is that serious transgressions have taken place and may still be taking place.

5

A further issue which needs serious consideration and on which I would welcome an early discussion with you is how any debt which might have been incurred by Iraq post UN sanctions or made to rogue nations should be treated. This would be a further opportunity to send a powerful message for the future.

6

I look forward to your response and to meeting you again soon.

UNQUOTE

In due course I had a call from Mr. Corell, the Under Secretary-General for Legal Affairs at the United Nations, at the suggestion of the Secretary-General. He was anxious that I should write setting out the issues which needed to be addressed. I had hoped to review these on my next visit to Baghdad but the list of non-end users which I had seen in Baghdad was leaked to an Iraqi newspaper (Al-Mada). I was aware that this list included Mr. Sevan and therefore immediately wrote to Mr. Corell on 2nd February 2004.

D. 2 February 2004 - Second letter to The Secretary General**QUOTE:**

TO: Mr. Hans Corell, Under Secretary For Legal Affairs and Legal Counsel of the United Nations for: The Secretary General
Copy to: The Iraq Governing Council; The Foreign Secretary, Mr. Jack Straw, co Mr. John Buck, Director, Iraq at the Foreign Office.
FROM: Claude Hanks-Drielsma, Advisor to Iraq and Chairman of Roland Berger UK

UNITED NATIONS INDEPENDENT INQUIRY

Dear Mr. Corell,

Further to our conversation at the request of The Secretary General in response to my fax to him dated 5th December, I am now in a position to respond. There is information which I was not in position to refer to when we spoke.

1

The areas which need urgent investigation should include:

1. Oil-for-Food Program

- a. Indications are that not less than 10% was added to the value of all invoices to provide cash to Saddam Hussein (as much as \$4 billion). If so, why was this not identified and prevented? Was the UN alerted to this at any stage? What action was taken and who was made aware of this allegation?
- b. The UN received a fee of 2% of the value of all transactions to administer the program (as much as 1.1 Billion US Dollars). What method was put in place by the UN to insure inspection of the quality of food?
- c. What controls were in place to monitor BNP (the bank in France) who handled the bulk of LC's, the total value of which may have in the region of 47 billion US\$. What exchange rates were applied by BNP and why were payments converted into Euros and then back into US\$?
- d. The Role of Jordanian Banks such as Jordan National Bank, Arab Bank and Housing Bank: Have there been a proper independent audit of all transactions and a proper accounting of all funds? Are these banks still holding funds, if so how much, why and how is this monitored? Was there a link between these banks and The Iraq Secret Service or any other part of the Saddam Hussein system?

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e. Who at the UN carried overall responsibility for the Oil-for-Food program? Could there have been any link, directly or indirectly, with Saddam Hussein or his middlemen?

2. UN approval of Oil Contracts under the above program

- a. Why did the UN approve oil contracts to non-end users? And without knowing at what price?
- b. A list of some of these contracts has been published by an Arab News Paper (this list is known to me). It demonstrates beyond any doubt that Saddam Hussein bought political and other support under the aegis of the UN. In this list a "Mr. Sevan" is shown as receiving crude oil by this method through Panama.
- c. Very significant supplies of crude oil made to non-end users were to or to those linked to individuals with political influence in many countries including France and Jordan. What method of control and transparency over sales did the UN require?

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I again urge the UN Secretary General to immediately appoint an independent commission.

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UNQUOTE

Nobody can understand why the UN did not prepare proper detailed and comprehensive annual accounts of the Oil-for-Food programme's income and expenditure with an auditor's report. There needs to be complete accounting for the income and expenditure now and made publicly available.

3

The UN's response to my second letter dated 2nd February (Page 9) of UN wrongdoing, was 'produce the evidence'.

4

My advice to the IGC was that the only credible way to do this was for the IGC to appoint a world-class firm of accountants together with appropriate legal advisors. We now all await the outcome of such a report before any definitive conclusions can be reached or appropriate action can be taken.

E. Appointment of KPMG and Scope of Investigation:

Who to Appoint - February 2004

Independent soundings were taken as to who was the most highly regarded individual with the appropriate experience and background. The advice received was that this was a Mr. Adam Bates at KPMG, in charge of KPMG's Global Forensic activities. I had never met Mr. Bates before but meetings were arranged with him at my London office. In due course KPMG confirmed that they were prepared to undertake the task envisaged and I recommended the firm to the Finance Committee of the Iraq Governing Council. Particularly as KPMG agreed that Mr. Bates personally, would take charge of the mandate.

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The recommendation was accepted by the Finance Committee of the Iraq Governing Council and a visit to Baghdad with KPMG took place towards the end of February 2004. Meetings also took place with Mr. Olin Wethington at the CPA and KPMG and we informed him fully. He totally supported the initiative and offered to help in anyway he could to expedite KPMG's task.

KPMG then commenced with obtaining data and interviewing ministerial officials. During these initial meetings, it was interesting to learn that officials at the Central Bank of Iraq under the Saddam Hussein regime had been concerned about the relationship between BNP and the UN. They had written to the UN many times about discrepancies but UN officials had stonewalled their requests.

THE KPMG's SCOPE OF INVESTIGATION

The Finance Committee of the IGC agreed that the scope of the investigation should cover the following:

1. Identification of governments, individuals and corporate entities in the public and private sector both in Iraq and elsewhere who wrongfully benefited under the UN sanctions or under the oil-for-food programme.
2. Identification, verification, tracing and recovery of misused assets belonging to the state of Iraq and identifying actions which may have caused loss or damage to Iraq in connection with or as a result of actions in breach of the oil-for-food programme or in breach of the UN sanctions.
3. In relation to those identified in 1. To analyse and collate available evidence in such a way as to facilitate decisions by the Iraq Governing Council in deciding what actions to take to bring to account those who benefited or profiteered improperly under the programmes referred to and through negotiations or other legal means to support recoveries or claims that may need to be made.

The report would also cover improper payments within the Oil-for-Food programme, adjustments in invoice values to provide excess funds, improper kick backs, reporting and responsibility inside the UN, status and use of fees received by the UN, controls in place to monitor agents acting for the UN, role of banks in handling payments, cash and otherwise, identifying, retrieving funds still held by overseas banks and tracing ultimate beneficiaries where necessary.

On the 3rd March 2004, I wrote my third letter to the Secretary-General informing him of the KPMG and Freshfields appointment.

F. 3 March 2004 - Third letter to The Secretary General:**QUOTE:**

To: Mr. Kofi Annan, Secretary General, United Nations
c/o Mr. Hans Corell, Under Secretary for Legal Affairs and Legal
Counsel of the United Nations
From: Claude Hanks-Drielsma
Advisor to Iraq

I wrote to you in December urging the UN to set up an independent commission to investigate the Oil-for-Food Programme. 1

This is to formally notify you that Iraq has asked KPMG (the international firm of auditors) and Freshfields Bruckhaus Deringer (the leading firm of lawyers), to prepare an independent report which will be presented to the Governing Council of Iraq who will decide what action is to be taken. 2

I have today returned from Baghdad and work on the report has begun. Maximum resources will be engaged to ensure that phase one of the report will be completed as soon as possible. The CPA is fully informed. We hope that the UN will fully cooperate with those preparing the report and make available any records as requested. The Iraq Government Audit Department will also be engaged. 3

Could you possibly confirm whether the UN has taken any precaution to secure all relevant documents? If this has not been done, might this not have been appropriate action, given the possibility that officials in the UN might be implicated, to ensure that no relevant documents or evidence are destroyed either in the UN or at any of its agents such as BNP etc? 4

We shall all await the report, but feel I must alert you that based on the facts as I know them at the present time, the UN failed in its responsibility to the Iraqi people and the international community at large. The UN should not be surprised that the Iraqi people question the UN's credibility at this time and any future role for the UN in Iraq. It will not come as a surprise if the Oil-for-Food Programme turns out to be one of the world's most disgraceful scams and an example of inadequate control, responsibility and transparency, providing an opportune vehicle for Saddam Hussein to operate under the UN aegis to continue his reign of terror and oppression. 5

I will be in New York and Washington on Monday and Tuesday 8th and 9th March and would be available to meet with you personally, if you felt that such a meeting could be helpful. It would be an opportunity for me to explain in more detail some of the relevant issues. 6

UNQUOTE

Credit must be given to the IGC for their professionalism and transparency and their decision to commence a professional investigation. This combined with the fact that letters to the Secretary-General were in the public domain and the resulting media interest, forced members of The Security Council and the Secretary-General at long last to respond to this serious problem. Had the UN had in place an independent (non-political / governmental) review body the UN might have acted much sooner.

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Nor was any action was taken by the UN when this matter was raised by the IGC members in September 2003. Two Kurdish leaders, Mr. Barzani and Mr. Talabani, had also written to Mr. Annan on 10th February 2003 to raise their concerns but never received a reply to their letter.).

2

The Finance Committee informed all appropriate ministries in Iraq to secure the necessary documentation. KPMG's second visit to Baghdad was successful in securing important and relevant evidence and KPMG received full co-operation from highly competent civil servants.

3

G. 26 March 2004 - Letter from Iraq Governing Council to The Secretary General:

On 26th March 2004, the Iraq Governing Council wrote a letter to the Secretary-General reconfirming full co-operation with the UN investigation but also asking the UN's co-operation in furthering it's own investigation. The Iraq Governing Council requested immediate assistance in the following areas

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1. Access to the following UN documents:

- All audit reports relating to the UN oil-for-food programme;
- Minutes of the 661 sanctions committee and supporting papers;
- All records relating to the oil overseers;
- All reports produced on behalf of the UN by Lloyds Register, Saybolts and Cotechna

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2. Arrangements to be made for the following individuals to be made available for interview;

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- Benon Sevan (Executive director of the office of the Iraqi programme);
- Suzanne Bishopric (Treasurer);
- Bernard Cullet, Alexandre Kramar, Maurice Lorenz, Arstein Wigestrang, Michel Tellings and Morten Buur-Jenson (Oil overseers);
- The Chairperson(s) of the 661 Sanctions committee during the period 14 April 1995 to 9 April 2003.

3. Agents of the UN

4

Release Lloyds Register, Saybolts and Cotecna of any confidentiality constraints and instruct them to co-operate with the IGC investigation to enable the investigation team to:

- Interview current and former employees and contractors;
- Examine documents held by these entities relating to their work as agents of the UN

Two annual reports of the UN Office of Internal Oversight Services ("OIOS") also reveal why an investigation is required. The first, for the period 1 July 1999 to 30 June 2000 described how in that year the OIOS increased its resources devoted to the Oil-for-Food program in recognition of the high value of oil revenue and the complexity of the organisation. The report commented adversely in a number of areas. For example in relation to the coordination and monitoring of the Office of the Humanitarian Coordinator in Iraq ("OHCH") of projects in northern Iraq which to date had amounted to over \$1 billion that, inter alia, "that there was only limited coordination of programme planning and insufficient review and independent assessment of project implementation activities". In addition the report commented that "The procurement function [of OHCH] had not been effective and, as a result, there had been several breaches of procurement rules and frequent delays in procurement actions". The second, for the period 1 July 2001 to 30 June 2002, reviewed the management of the escrow account. It commented that "appropriate United Nations investment limits had not been complied with, exposing the funds to unacceptable risks". It is clearly vital that those conducting any investigation understand these publicly available reports as well as the many more detailed reports which the UN have kept secret.

The letter went on to say 'given the urgency to which we are committed to carrying out this investigation we would like an indicative response to this specific request within seven days from the date of this letter'. Despite four weeks having passed, no response has been received.

H. Delay in KPMG/Process:

Unfortunately, Ambassador Bremer suddenly decided to intervene. He informed the Finance Committee of the IGC that he would not release funds from the Iraq Development Fund to meet the costs of the investigation unless the work was put out to tender. He also, without discussion or consultation, put an arbitrary upper limit of \$5 million which he generously agreed to allocate from the Iraq Development Fund to the IGC. He did so with the full knowledge that KPMG had already started the investigation and done a great deal of work. Reluctantly, but left with no choice, an invitation was put out within 24 hours on March 26 2004 (See Page 17) by the Finance Committee of the IGC with a closing date of 9th April 2004. The KPMG team had to return to London and stop their work in Baghdad in order for them to prepare their proposal. The CPA were aware of this. On 4th April 2004 it was brought to my attention that the CPA might after all put out their own invitation to tender.

This prompted my letter of 5th April 2004 to Ambassador Bremer to which I have had no response. The delay (possibly up to two months) caused by Ambassador Bremer's intervention is most unfortunate and carries a great deal of risk. Some of the key documents received by KPMG may never have come to light or may have been permanently lost had KPMG not started their assignment when they did (See Page 20, Paragraph 1, Letter to Ambassador Bremer).

Ambassador Bremer also instructed all Ministries to secure all documents relevant to the Oil-for-Food programme. Whilst a start, this does not necessarily guarantee their safety. As with many investigations of this type, the most important documents are not those which necessarily appear to be the most obvious. It is not until the investigation gets underway that the relevance of documents becomes clear. So although Ambassador Bremer's and the Chairman of the IGC's Finance Committee instructions no doubt will have some effect, there is no substitute for restarting the investigation as soon as possible to ensure that all relevant documents are identified, scanned and secured.

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I. 26 March 2004 - IGC Invitation to Tender:

From:
The Chairman, The Finance Committee
Iraq Governing Council
Baghdad

INVITATION TO TENDER

Confidential

26 March 2004

Iraq Report into the "Oil-for-Food Programme"/Violations of UN Resolutions

The invitation to tender is for the provision of forensic investigation services combined with the necessary legal support to prepare for the Iraq Governing Council a report with regard to the United Nations Resolution 9865 – oil-for-food programme operated between the periods 14 April 1995 and 9 April 2003 and any other relevant resolutions connected thereto including violations of UN sanctions.

The Iraq Governing Council unanimously endorsed the decision to appoint a world leading accounting firm combined with a leading law firm to provide the necessary support. You are invited to submit a written statement of qualification by 9 April 2004 12 p.m. Baghdad time by email as herein.

Scope of investigation will include:

1. Identification of governments, individuals and corporate entities in the public and private sector both in Iraq and elsewhere who wrongfully benefited under the UN sanctions or under the oil-for-food programme.
2. Identification, verification, tracing and recovery of misused assets belonging to the state of Iraq and identifying actions which may have caused loss or damage to Iraq in connection with or as a result of actions in breach of the oil-for-food programme or in breach of the UN sanctions.
3. In relation to those identified in 1. to analyse and collate available evidence in such a way as to facilitate decisions by the Iraq Governing Council in deciding what actions to take to bring to account those who benefited or profiteered improperly under the programmes referred to and through negotiations or other legal means to support recoveries or claims that may need to be made.

The report will also need to cover improper payments within the oil-for-food programme, adjustments in invoice values to provide excess funds, improper kick backs, reporting and

responsibility inside the UN, status and use of fees received by the UN, controls in place to monitor agents acting for the UN, role of banks in handling payments, cash and otherwise, identifying, retrieving funds still held by overseas banks and tracing ultimate beneficiaries where necessary.

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Timetable

The work would need to commence immediately at the time of appointment and be completed in a timely and efficient manner.

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Form of the Bid

Proposal should not exceed 10 pages of single-sided A4 paper in length and proposals should clearly demonstrate:

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1. Your firm's relevant experience.
2. Your current Iraqi capability and presence.
3. A detailed work plan and description on how you would perform the work.
4. Set out what you believe to be the key issues.
5. What you consider to be the key problems and how you would overcome them.
6. Confirm that your firm would not have any conflict with regard to the UN and any of its agents such as BNP or any other parties which you consider relevant.
7. Provide indicative costing.
8. Provide detailed CV's of the senior team members who would be directing and performing the work to include their international experience and relevant experience and confirming the firm's global capabilities.
9. Finally, your firm's commitment to undertake the necessary work in Iraq at the present time.

10. Your submission should include details of a law firm of your choice from the enclosed list and the said law firm should also submit all details as herein together with your submission.

Valuation criteria

The contract will be awarded on the basis of the best combination of the capabilities demonstrated, resources to the project and proposed methodology to be used.

Applicants must be able to specify that they are legally entitled to work in Iraq following all US governmental requirements and do not have ties to any of the parties involved in the investigation. The applications must have the ability to trace and recover data and ensure the validity of documents, the commitment to sending the necessary team to Iraq to perform any analysis and research that needs to be undertaken there.

J. 5 April 2004 - Letter to Ambassador Paul Bremer:

QUOTE:

TO: AMBASSADOR PAUL BREMER, CPA BAGHDAD
CC: MR. OLIN WETHINGTON
RE: OIL-FOR-FOOD PROGRAMME, IRAQ GOVERNING COUNCIL REPORT

Prior to my sending a letter to the Secretary General of the United Nations on 5th December 2003 to urge the Secretary General to appoint an independent investigation, I made four calls to your office to try to meet with you to discuss this matter. Unfortunately, your schedule did not allow.

At the end of February, I met with Mr. Olin Wethington at the CPA and subsequently arranged a meeting with KPMG and Mr. Wethington at which I was present. I had informed Mr. Wethington at my first meeting that the Governing Council had requested that KPMG and Freshfields prepare an independent report to be presented to the Governing Council. At the meeting with Mr. Wethington and KPMG, Mr. Wethington confirmed support for this initiative and offered the CPA's assistance in any way they could. Including putting KPMG in touch with a number of individuals who might be helpful.

On 3rd March 2004, I reported to the Secretary General of the United Nations that work had begun and the press were informed. It was also that letter in which we requested that the UN take precautions to secure all relevant documentation. Dr. Chalabi as Chairman of the Finance Committee of the Iraqi Governing Council, had done the same with all the relevant Governmental departments in Baghdad. I trust you concur that this action by the Governing Council was professional, transparent and in the general public's interest.

We were most fortunate in securing the commitment of KPMG and in particular Mr. Adam Bates as Chairman of KPMG Global Forensic department.

I believe on 25th March 2004, I received a telephone call from Baghdad to say that you had confirmed the "Iraq Development Fund" would pay for the said report but in order for the Iraqi Governing Council to qualify for the release of these funds, you insisted on a tender process by the Finance Committee of the Governing Council.

The Finance Committee of the Governing Council within 24 hours put out an invitation to tender, requesting written statements of qualification by 9th April 2004, 12pm Baghdad time. (KPMG who have already done extensive work and as you know had their team in Baghdad at that time agreed to continue their work in order not to delay the process).

It is deeply disturbing to have been informed that you may now be considering that the CPA / Board of Supreme Audit should usurp the initiative of the Governing Council and their invitation for tender as this will cause considerable delay and confusion and may well be perceived as politically motivated.

It is always important for investigations of this nature to be carried out as quickly as possible. This is to prevent those under investigation from destroying or altering records or from silencing witnesses. The KPMG team has returned to London to write their proposal document which means that they are not investigating these matters in Iraq. The sooner KPMG, or another firm, are given the clear signal that the CPA and the IGC have the will and the funding to commence the investigation again the better. This would be in everybody's interest.

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Ambassador Bremer, I am confused by CPA's actions at the present time. We certainly hope that this matter can be clarified and resolved satisfactorily. If not, the Iraq Governing Council should consider exploring independent funding in order to complete the report.

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UNQUOTE

K. 6 April 2004 - CPA confirmation to the press that IGC Tender would stand:

However, the CPA on 5th April confirmed to a senior journalist at the Wall Street Journal that the tender process, as put out by the IGC, would stand. This was reported as follows:

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QUOTE:

REVIEW & OUTLOOK (Editorial)
Moving On Oil-For-Food

The Wall Street Journal Europe

Back in February we reported that the Iraqi Governing Council had appointed auditors KPMG, and international law firm Freshfields Bruckhaus Deringer, to investigate

2

documents recovered from Iraqi ministries related to the U.N.'s scandalous oil-for-food program. That effort seemed to be moving along smoothly. KPMG's forensic team had made two trips to Iraq and was gearing for more, with a view toward delivering a report in May or June, just before Ambassador L. Paul Bremer and the Coalition Provisional Authority formally transfer sovereignty to Iraqis.

But late last month it appeared that the CPA was putting the brakes on the probe. The Iraqi Governing Council's Finance Committee, headed by Ahmed Chalabi, was told that it needed to launch a full tender process for the task, ostensibly because the funds for the project would come from Iraq's development fund, which is controlled by the CPA. KPMG had been appointed as a result of an international search effort led by IGC advisor Claude Hanks-Drielsma (a former chairman of the management committee of PriceWaterhouse). Mr. Hanks-Drielsma responded to the CPA demand by sending out a tender letter requesting bids to the four top audit firms.

So far, so bureaucratic. But last week word went out through the grapevine that the CPA would be putting out its own tender, leaving the matter subject to further delays, not to mention confusion over who would run the tender, select the auditor and oversee the process. Neither the auditors we spoke with, nor those close to the IGC seemed to know the answers, despite efforts at getting clarification from the CPA.

We set out yesterday to try to clear up some of the confusion and are happy to report that a decision seems to have been reached. A CPA spokesperson told us that the Iraqi Board of Supreme Audit would be "overseeing the independent Iraqi investigation of allegations of misconduct spanning the management of the former Oil-for-Food Program. This investigation will be carried out by a private auditing/accounting firm to be selected by a full, open and competitive process. The effort will be funded by \$5 million in development funds for Iraq funds. The Board of Supreme Audit was established for precisely this type of function, and will ensure an independent, apolitical and vigorous examination of the allegations." Pressed further, the CPA said that the tender process being run by the IGC with the April 9 deadline would indeed stand.

That's a relief. Getting to the bottom of the oil-for-food scandal is vital for Iraq's reckoning with the crimes and corruption of the Saddam era. It is equally important if Iraqis are going to be asked to trust the U.N. again to help them toward democratic governance. Any delays to that process, or suspicions that it is being politicized by those who wish to make life easier for the U.N., would cast further doubts on the job being done by coalition authorities in Iraq.

Steven Edwards

UNQUOTE

L. 9 April 2004 - CPA Invitation to Tender:

On 9th April, the CPA without consultation or informing the Governing Council or the Finance Committee of the Iraqi Governing Council put out an invitation to tender with a

closing date of 24th April 2004. Notwithstanding that they knew the IGC had already initiated an appropriate tender process. The CPA then sent out a further announcement that it wished to accelerate the process and changed the date to 20th April. This approach to handling something as important as this report for Iraq is inappropriate and unprofessional.

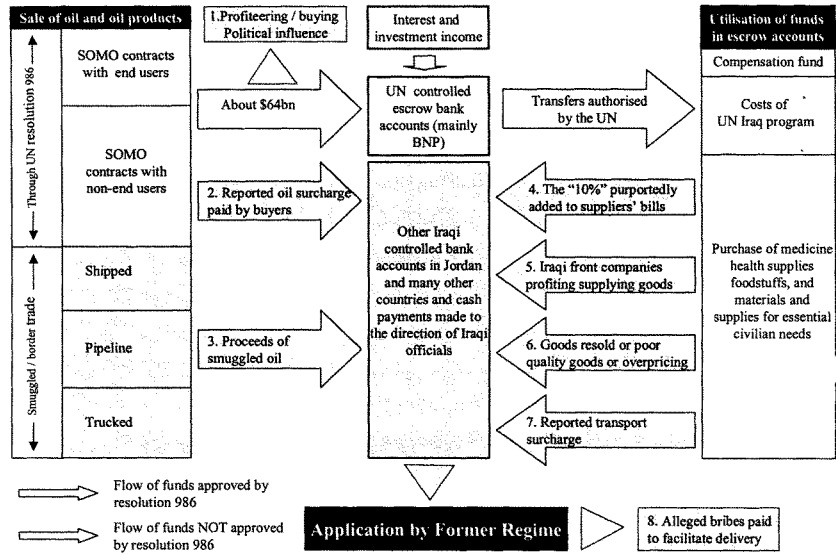
The new CPA tender sets out a somewhat different scope to that originally set by the Finance Committee of the IGC. As far as I am aware the CPA did not discuss the scope in their tender document with the Finance Committee of the IGC. This is incredible given that it was the IGC who initiated this investigation for the people of Iraq.

Three audit firms responded to the IGC invitation to tender (sent out on March 26) by the closing date of 9th April. They were clearly confused because of the parallel tender issued by the CPA (as mentioned above) but in the end all three informed the CPA that they had submitted their tenders to the IGC Finance Committee. It was most unfortunate how this was handled by the CPA. But it is consistent with many of the CPA's actions, and the perceived high-handedness by Ambassador Bremer in dealing with the IGC over a long period. The lack of consultation and transparency threatens to undo much of the tremendous goodwill created by the coalition forces in liberating Iraq and their continuing role in assisting with future stability. The present scenario is not helped by the Iraqi and international perception that the CPA's awarding of contracts has often caused concern. Significant contracts may have been awarded to those with historic Saddam Hussein links or have failed to deliver. (The Inspector General of the Department of Defense issued a report on March 18th and the US Accounting Office may be investigating and reviewing non-defense contracts).

On 18th April 2004, The Finance Committee of the Governing Council met and reviewed the submitted tender proposals. They came to conclusion that KPMG's proposal was the most competent and suitable for this task. Representatives of the CPA were present at this meeting.

M. Oil-for-Food Programme Overview

Oil-for-food: an overview



Mr. SHAYS. Thank you very much.

What we're going to do is we're going to have 10 minute questioning, given the number of Members here, and we'll have a second round, maybe even a third round. We'll start with Mr. Ruppertsberger.

Mr. RUPPERSBERGER. First, could you tell us your role as it relates to the Iraqi Governing Council? What is your role? Are you their attorney? Are you an advisor?

Mr. HANKES-DRIELSMA. I am an advisor to the Iraq Governing Council.

Mr. RUPPERSBERGER. And are you here speaking on their—testifying on their behalf today?

Mr. HANKES-DRIELSMA. No, I am simply testifying as an—

Mr. RUPPERSBERGER. OK, how long have you been in that role?

Mr. HANKES-DRIELSMA. Since December last year.

Mr. RUPPERSBERGER. OK, now, do you have a relationship with Chalabi?

Mr. HANKES-DRIELSMA. I know him well—

Mr. RUPPERSBERGER. Well, do you work—

Mr. HANKES-DRIELSMA [continuing]. As I know many other—

Mr. RUPPERSBERGER. OK, do you work with him closely on the issues involving the Council, the Governing Council?

Mr. HANKES-DRIELSMA. Issues which I might contribute to, I work with him, as I work with other—

Mr. RUPPERSBERGER. OK, he is one of your clients, is that correct?

Mr. HANKES-DRIELSMA. Not he. The Governing Council.

Mr. RUPPERSBERGER. The Governing Council, and he is a member of that Council?

Mr. HANKES-DRIELSMA. He chairs the Finance Committee.

Mr. RUPPERSBERGER. OK. Now, your testimony right now, what I'm trying to get to, you heard the questions in the first panel, is basically where—we need to follow the evidence. If these allegations are true, the United States of America, Great Britain, all the countries involved in the United Nations, which is really what the U.N. is made up, should do everything in their power to get to the bottom. But they need to follow the evidence.

Now, you've made some pretty strong allegations in your testimony against the U.N. And so far, I have not heard any testimony that tells me that any of the evidence that has come forth so far has been corroborated, has been vetted, it's been held accountable for true evidence. And I'm asking you if you have any more information, other than what the first panel had. Because if this is becoming a worldwide issue, the United Nations right now is clearly being criticized by you and other people, and if they did something wrong, then they need to be criticized, and they need to be held accountable.

But I'm looking at the issue of authenticated evidence. Now, it came out in the testimony that the newspaper, what is it, Al-Mada, was where the first articles came out about this corruption. Now, do you have any idea or know of any evidence that has been authenticated or corroborated as it relates to the allegations that you're making in your criticism of the United Nations?

Mr. HANKES-DRIELSMA. Congressman, I totally agree with you that all this needs to be looked into and confirmed. All I can tell you is that I saw the list that Al-Mada, was subsequently leaked to Al-Mada well before in December. I believe, from the information available to me, that this list was made up from existing records by competent civil servants who would been there for a long time.

Because of the implications of it, and this was well before the article in Al-Mada, I wrote to the Secretary General immediately, suggesting that he should appoint an independent investigation, so that they could establish exactly what the facts were. The Secretary General did not immediately do that. Subsequent, and we don't know who, but there is suspicion that it might be a junior official in one of the ministries, and contrary to what we had decided should happen, this list was leaked to the press. That prompted my second letter to the Secretary General.

Mr. RUPPERSBERGER. OK, well, you did make the comment in your answer to my question that you believe. And I would say based, at first blush, what I see disturbs me greatly. It also disturbs me that my country, the United States of America, sits on the Security Council also, and if that Security Council had knowledge of any of this and didn't pursue it, I have a concern with all countries on that Security Council in that they did not move forward with these types of allegations.

What I want to get to, though, I'm just wondering right now, with all the political issues that are out there, why is this becoming to the forefront right now, and if there, and show me the evidence, show me what needs to be done. And then I hear that we're, and I think that it is important that we move forward to investigation, but that certain countries now aren't cooperating. When Volcker is trying to get evidence, that certain countries like Russia are saying, well, we think this is not right and we should move forward. What is your opinion on that?

Mr. HANKES-DRIELSMA. If I can just refer back to the evidence, it was precisely because of the accusation that some of these articles might have been politically motivated that I advised the Governing Council that the only way to deal with this was to appoint a firm of international standing to do a detailed report. And that is why in due course they appointed KPMG.

I can also tell you that at the request and following meetings with the U.N.'s internal oversight in New York, at their request, data was handed over which KPMG and I believe to be genuine. I had a request this morning from the internal oversight whether that information could be released to Mr. Volcker. And I of course said immediately. And in fact I will be meeting with Mr. Volcker tomorrow morning.

Mr. RUPPERSBERGER. Well, I would hope you pursue that. Let me ask you this. You talked about a list, a list of, what was it, 275 people who had received money, including countries. Now, where is this list right now?

Mr. HANKES-DRIELSMA. This list, first of all, the U.N. internal oversight has a copy of that list.

Mr. RUPPERSBERGER. OK. Where's the original of the list?

Mr. HANKES-DRIELSMA. The original list, to the best of my knowledge, is in Iraq.

Mr. RUPPERSBERGER. Who put the list together?

Mr. HANKES-DRIELSMA. The list was put together by officials in the Oil Ministry.

Mr. RUPPERSBERGER. OK. And are those officials available for testimony and depositions and things of that nature?

Mr. HANKES-DRIELSMA. I can't answer for those officials, but—

Mr. RUPPERSBERGER. Were you—

Mr. HANKES-DRIELSMA [continuing]. But KPMG, if I can just—

Mr. RUPPERSBERGER. Yes.

Mr. HANKES-DRIELSMA. KPMG is looking at all documentation. We didn't want that. That list should not be looked at in isolation.

Mr. RUPPERSBERGER. No doubt.

Mr. HANKES-DRIELSMA. That's why the urgency of the report is so important.

Mr. RUPPERSBERGER. OK, good. Thanks.

Well, let me ask you this, then. We're talking about a list, but whether or not there's a list or whatever documents, and we need to authenticate those lists, can we really come to conclusions, some of your conclusions in your testimony, when you have criticized the United Nations, before, and come to conclusions before we authenticate any of the documents or evidence, including this list, what is your opinion on that? And you've got to be a pretty smart person to be in the role that you're in right now, or you wouldn't be there.

Mr. HANKES-DRIELSMA. Mr. Congressman, I used to chair the management committee of Price Waterhouse and Partners, and I do not make statements lightly. Furthermore—

Mr. RUPPERSBERGER. Well, that's good, I'm glad you're—

Mr. HANKES-DRIELSMA. Furthermore, I have seen a great deal of evidence, and some of the evidence is still privileged and prepared for the purpose of litigation.

On the evidence that is available to me at the present time, I have made the statements that I have. And I believe that evidence to be genuine. Having said that, it is for KPMG and Freshfields and also for the U.N. to do the thorough report to confirm exactly what—

Mr. RUPPERSBERGER. You say there's evidence that's privileged? I mean, what privilege is there for litigation, civil litigation? What type of litigation are you talking about?

Mr. HANKES-DRIELSMA. Well, this will be for the lawyers to decide what—

Mr. RUPPERSBERGER. We're talking about United Nations, funding the war against terrorism. It seems to me any evidence of corruption or kickbacks or anything is very important. In our country at least, a U.S. attorney or someone could subpoena those records. Are these records, from your knowledge and from your legal background, could we be in a position to subpoena these records that you're saying are privileged right now?

Mr. HANKES-DRIELSMA. Well, some of the records are already with the United Nations internal oversight at this very moment. You would be in a better position—

Mr. RUPPERSBERGER. Are they invoking privilege, the United Nations?

Mr. HANKES-DRIELSMA. I—

Mr. RUPPERSBERGER. OK. Well, it seems to me again, just follow the evidence. We have a tendency throughout the world to put blame on everything until we get the evidence. This is such an important issue. We can't take our eye off the ball of terrorism. That is our ultimate goal, and also reconstructing Iraq and doing what we need to do to bring that country hopefully where it will be years to come.

Ambassador Kennedy testified earlier, you heard his testimony, that none of the evidence has been substantiated. He said none of the evidence that he knew of has been substantiated. Beyond the issues of non-compliance issues and inappropriate decisions, I'm curious how you confidently, and I'm kind of repeating myself, that you have made these strong—really statements about the United Nations, coming to resounding conclusions based on evidence that is yet to be authenticated. And don't you think it's dangerous and an adversarial position to take, when we should all be working as the world to fight terrorism? And if you do, if you have this evidence, let's put it on the table and not invoke privilege.

I know you're a lawyer, but it seems to me that you, based on your expertise, might be able to take that evidence and get it to the right forum so we can move forward.

Mr. HANKES-DRIELSMA. Well, that is absolutely the intent—just for the record, I'm not a lawyer. But you're absolutely right.

But it's not why I've made my statement, it is a combination of the evidence I've seen in Iraq, the evidence which has been produced by your very own audit office. You have testimonies by Mr. Charles Dillford, Director of the Central Intelligence, Special Advisor for Strategy on Governing Iraq, which said that the budget for MIC, the Military Industrial Company, increased nearly a 100-fold with the budget, totaling \$500 million in 2003. Most of this money came from illicit oil contracts.

There is significant evidence already that this program was misused, and for that reason, I have made the statements I have.

Mr. RUPPERSBERGER. Any more specific evidence? That's not real strong at this point, that could be used in a court of law or in a criminal prosecution. What evidence do you have that you could share with us?

Mr. HANKES-DRIELSMA. Congressman, first of all, the report, the work that was started by KPMG was delayed by almost 2 months. They've only just restarted. They were in Baghdad securing important documents. Until such time that report has been completed, I think we should all wait for that report and wait for the U.N.'s report.

Mr. RUPPERSBERGER. OK. Real quick, do you know about who the, it's been told to us, again from media I got this information, Ashar Al Wassad is the owner and editor of Al-Mada newspaper. Do you know what his relationship is to the Iraqi Governing Council or Mr. Chalabi? Do you have any knowledge of that?

Mr. HANKES-DRIELSMA. To the best of my knowledge, there is no link whatsoever. On the contrary, there's animosity.

Mr. RUPPERSBERGER. Do you have any idea what Al-Mada's motives were at this time to make this public and to go forward? The timing issue is what I'm looking for.

Mr. HANKES-DRIELSMA. It's not for me to speculate.

Mr. RUPPERSBERGER. Not for you to speculate. I assumed you would say that answer. That's about how I would answer it, too.

Anything else that you would like to say based on the questions that I've asked you?

Mr. HANKES-DRIELSMA. Well, Congressman, only to say that precisely because of the points you've raised, it is terribly important that this report, particularly from the Iraqis' point of view as well, can be completed without further delay.

Mr. RUPPERSBERGER. Would you agree with a conclusion that I've come to, that until we move forward that it's unfair really to the world for us to move forward and make strong statements against the United Nations, which comprises the countries throughout the world, until we have the evidence that has been authenticated and corroborated? Would you think that it would, that it is important to get that first before we move forward and convict that group? Because I have not yet seen the hard evidence, other than the allegations. And if the hard evidence is there, let's go at it with everything we have.

Mr. HANKES-DRIELSMA. Congressman, I can't comment on the evidence that the U.S. Government has already produced, and much of which has been testified, I believe, in Washington. I'm certainly aware that in the past, these matters, as you hopefully will see from my testimony, has been swept under the carpet. That cannot continue to happen. And for that reason, I made my letters to the Secretary General publicly available. And it's only because of that, I believe, that the U.N. has now actually appointed an independent commission.

Mr. RUPPERSBERGER. OK, one other thing and I'll stop. I was told by the chairman I could move down—

Mr. SHAYS. There are only four of us.

Mr. RUPPERSBERGER. There are only four of us. Do you know of any relationship since Saddam was taken out between your client, the Governing Council, and the United Nations? Any relationship working together on any issues?

Mr. HANKES-DRIELSMA. Yes, absolutely.

Mr. RUPPERSBERGER. Will you please discuss that?

Mr. HANKES-DRIELSMA. Well, in my written testimony, you will see that the Governing Council wrote to the Secretary General, first of all pledging their support in cooperating with information, and hoping that the U.N. would do the same. And for that very reason, I'll be meeting with Mr. Volcker tomorrow morning.

Mr. RUPPERSBERGER. Is it still the position of the Governing Council to work closely with the U.N.?

Mr. HANKES-DRIELSMA. Absolutely.

Mr. RUPPERSBERGER. OK. Thank you.

Mr. SHAYS. Before recognizing Mr. Ose with my time, I just want to say that as early as 2000, the U.N. was told about oil surcharges and issued a 2001 report saying surcharges had to stop. I believe that we would not see action being taken unless this had become public. I view this more not that we're sending someone to jail right now, but we have determined there clearly is probable cause, and we need to get onto this investigation.

Mr. Ose, you have my time.

Mr. OSE. Thank you, Mr. Chairman.

Mr. HANKES-DRIELSMA, on pages 8 and 9 of your testimony, you provide a list of questions that you posed to the U.N. Under Secretary for Legal Affairs, Mr. Hans Corell, on February 2nd. If I'm correct, the U.N.'s response to your question was that they would produce the evidence embedded in those questions.

I'm curious, again referring to pages 8 and 9, your letter of February 2, 2004, have you received or learned the answers to any of your questions?

Mr. HANKES-DRIELSMA. Congressman, I perhaps wasn't very clear. Their response to me was for me to produce the evidence. And they have not attempted to answer any of those questions.

Mr. OSE. OK, so let's just go through a couple of those. You, on behalf of the Governing Council, pointed out some problems to their Under Secretary for Legal Affairs/Legal Counsel. And the question, I just want to step through this if I may. You have a number of sections here, but I'm just going to start on that.

Under the Oil-for-Food program, you make the statement that indications are that not less than 10 percent was added to the value of all invoices to provide cash to Saddam Hussein, parentheses, as much as \$4 billion. If so, why was this not identified and prevented? I presume these would have been contracts with the 661 Committee?

Mr. HANKES-DRIELSMA. Correct.

Mr. OSE. And your question of the U.N. was whether or not they had identified such 10 percent surcharges and what steps they had taken to prevent them. And their response to you was that, produce the evidence.

Mr. HANKES-DRIELSMA. Right.

Mr. OSE. You also asked whether or not the, I presume the Oil-for-Food program had alerted the Under Secretary for Legal Affairs/Legal Counsel or the U.N. in general of this problem. And their response to you was, produce the evidence.

Mr. HANKES-DRIELSMA. Right.

Mr. OSE. And then you asked what action had the U.N. taken to put a stop to such surcharges as well as who was made aware of the allegation of the surcharges, and their response to you was, produce the evidence.

Mr. HANKES-DRIELSMA. Right.

Mr. OSE. Now, the next question you asked, you made the point that the U.N. received a fee of 2 percent of the value of all transactions to administer the program. But that equated to a little bit over \$1 billion. Then you asked what method was put in place by the United Nations, interestingly enough, to assure the quality of the food. So in effect what the U.N. was buying were tenders for delivery of food to Iraq to these 56 or 52 warehouses spread around the country, for instance, in the Kurdish territories.

But your concern, or the concern of the Governing Council might have been whether or not the food in fact was edible?

Mr. HANKES-DRIELSMA. Right.

Mr. OSE. So you're asking the United Nations, what steps did you take to ensure that the food in fact was edible for humans?

Mr. HANKES-DRIELSMA. Indeed.

Mr. OSE. And the U.N. told you, produce the evidence that it wasn't?

Mr. HANKES-DRIELSMA. Yes.

Mr. OSE. Do you have any evidence that it wasn't?

Mr. HANKES-DRIELSMA. Yes, we do. And this will need to be again looked into in detail, to try to get quantities——

Mr. OSE. Just a minute. You have evidence that the food purchased under the tenders submitted in the Oil-for-Food program, administered by the United Nations for the benefit of the Iraqi people, you have evidence that the food purchased under those programs was not suitable for human consumption?

Mr. HANKES-DRIELSMA. Too, first of all, I believe that the U.N. was actually aware that on certain inspections, the food wasn't fit for humans.

Mr. OSE. Why do you say that?

Mr. HANKES-DRIELSMA. Because it's referred to, and I would have to come back to you in writing which report it was. Second, in discussing and questioning NGO's, they have told me the same.

Mr. OSE. Was there a pattern such that the providers of food that proved to be unfit for human consumption, in the sense that it came from a company, the same company over and over or the same country over and over, or——

Mr. HANKES-DRIELSMA. I don't know the answer to that, but that is precisely one of the things that KPMG will also be looking into, who were the main suppliers and what detailed and further evidence can be provided to demonstrate this flaw in the system.

Mr. OSE. Let me go to my next question, here. As I understand the process, the government would receive tenders for the purchase of oil, the money would be, on successful tenders, would be wired into BNP's account, the fiduciary account that they had, and then the oil would be released to the purchaser.

You've made the point that anybody who would take the trouble to ask why non-end users were buying fuel, and that's a different subject, it's not the subject I want to examine right here, what I'm curious about is whether the Governing Council has looked into the controls that BNP in one case, or I think CitiBank in the other, placed to ensure that the disbursements from their accounts were proper. Apparently the U.N. told you to show them, in effect, if you have evidence that it's not adequate, give it to us.

Mr. HANKES-DRIELSMA. Congressman, the relationship between BNP in particular, and I think it was Chase that was referred to this morning rather than CitiBank, but the bulk of the LC business, to the best of my knowledge, was handled by BNP.

Mr. OSE. LC is letter of credit, correct?

Mr. HANKES-DRIELSMA. Yes, letters of credit. When KPMG and I interviewed, and I was present, interviewed officials in the ministries in Baghdad, they had raised, under the Saddam Hussein regime, concerns in writing to the U.N. about the relationship and discrepancies on things that BNP was doing. They had received four internal audit reports from the U.N. for the first four phases, which had actually referred to some of these discrepancies. They had received an absolute negative response. It was none of their business for them to raise it. And from then on, the Iraqi government, Saddam Hussein's government, never received another audit report from the U.N.

So one of the things we'll be asking for is to have sight of these audit reports that they did.

Mr. OSE. The four of them.

Mr. HANKES-DRIELSMA. No, all of them. We would like to see all of them. It's very strange that once questions have been raised as a result of the reports that the U.N. refused to issue any further audit reports to the Iraqi government officials.

Furthermore, the Iraqi officials, and I would like to reemphasize again, both KPMG and I were impressed by their competence and their recall, and the information they could supply us with, they informed us that they had tried to increase the number of banks that handled letters of credit, and that the U.N. had prevented this, although they had done a token, very small percentage.

Quite independently from that, and I did not refer to my discussion or even question this issue, I had meetings with board members of the Deutschesbank, who confirmed to me that they would have been requested by Iraq, still under the Saddam Hussein regime, to handle some of the LC business. They had visited Iraq, they had decided after careful consideration that they did wish to do this business. They then set it in operation, the trickle came through, it was stopped. The Deutschesbank board of directors, with their representative, the German representative to the United Nations, visited the U.N. to ask why this was. Their first response was, we cannot do it under the U.N. resolution. Deutschesbank's response was, we've looked at the resolutions and that is not true.

Mr. OSE. The resolution, as I recall, merely said you shall have a fiduciary, it didn't say who the fiduciary shall be.

Mr. HANKES-DRIELSMA. Quite. Subsequent, Deutschesbank said, we've looked into these resolutions and there's nothing to prevent you from taking on some of the LC business. The response from the U.N. to Deutschesbank was, it's our decision and there's nothing you can do about it. And the relationship between BNP and the U.N. continued as before. And there was no competitive element incorporated.

Mr. OSE. One of the reasons I asked about this is that it's my understanding that the oil markets do their transactions in dollars. It's the international standard. I'm curious why payments for oil under the Oil-for-Food program would be converted into Euros and then converted back to dollars.

Mr. HANKES-DRIELSMA. I do not have the answer to that. It is a mystery to me as well.

Mr. OSE. Do you have any information about the exchange rates on those conversions, whether they were truly reflective of the market or tweaked?

Mr. HANKES-DRIELSMA. This is precisely one of the questions that needs to be looked into, and we hope, we hope, that it will be possible for all the documents and all the records of BNP to be subpoenaed.

Mr. OSE. Mr. Chairman, I note my time is up, I just want to make a point. Is it your testimony that the U.N. would not disclose the operating standards that they expected under the Oil-for-Food program, and when you asked them what they were, they told you, prove to us that we're doing something wrong?

Mr. HANKES-DRIELSMA. Correct.

Mr. OSE. How can you prove something's not being handled adequately if you don't know what the standards are? I think that's your point.

Mr. HANKES-DRIELSMA. That's my point.

Mr. OSE. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. At this time the Chair recognizes Mrs. Maloney.

Mrs. MALONEY. Thank you very much. Following up on Mr. Ose's questioning about the financial relationships, one of the things the committee's concerned about, or one of the policies or recommendations for policy changes that we put in place, so that abuse of programs or alleged abuse doesn't take place in the future, do you think it would be advisable that possibly we could recommend that the World Bank be used in escrow accounts and humanitarian food accounts for the U.N. in the future, since their books are supposed to be transparent and open to the public? And then it would remove the competitive bidding disclosure, secrecy aspect that has been alleged by some people.

Mr. HANKES-DRIELSMA. Clearly, something needs to happen in order to avoid something like this in the future. I think a sense of public accountability would really help enormously. I'm not in a position to comment whether the World Bank, which is also an enormous bureaucracy, would be the most appropriate.

Mrs. MALONEY. What would you recommend, based on your experience?

Mr. HANKES-DRIELSMA. I would recommend certainly than an organization like the U.N. needs to be forced to be publicly accountable and have in place independent and professional review boards.

Mrs. MALONEY. And in your opinion, the U.N. did not have these review boards?

Mr. HANKES-DRIELSMA. Well—

Mrs. MALONEY. Because it was testified earlier by Mr. Kennedy that the U.N. could not stop a contract. They could recommend changes and that certain customs officials or a customs review board recommended changes, but the ability to hold a contract was in the hands of the member states or the United States and other countries in the Security Council.

Mr. HANKES-DRIELSMA. The problem is, we don't really know what—I referred to the audit reports before. So many people have tried to seek, the U.N. refers to that as internal audits. Has anybody seen those internal audits? The evidence we've had from Iraqi officials that even they weren't given them any longer because they raised some questions. And all those letters are being secured by KPMG, all the letters written by the Iraqi officials, and they should become part of the evidence.

Mrs. MALONEY. In an earlier panel, Mr. Michael Thibault, the Deputy Director of the Defense Contract Audit Agency, testified that no cooperation, and he gave a very good analysis of what he saw as featherbedding and overpricing for inappropriate contracts, he said that, in coming forward with this analysis, he did not need any information from the Iraqi government, that he could have done it by himself earlier for the United States. And he then testified that he's not doing it now for the Defense Council that is now letting the contracts.

It appears to me if you have this tool of accountability, we should certainly have used it in the past. Yet he testified we're not even using it going forward. As I said, he testified he didn't need any facts supplied by the Iraqi people or government. Could you comment on that?

Mr. HANKES-DRIELSMA. Your point is an extremely valid one. And the same could have taken place for the verification and qualification of goods. There are some extremely professional firms who do nothing else but confirm the quality of goods. And it is a concern that much that happened, the lack of transparency, accountability, is happening right now with the Iraq Development Fund. The Iraq ministry of finance cannot obtain any information when they ask for it.

Mrs. MALONEY. Well, I join my colleagues on both sides of the aisle in support of having accountability for the Iraqi Defense Fund now.

Mr. HANKES-DRIELSMA. Development Fund.

Mrs. MALONEY. Development Fund now. And also, it should have been used in the past.

Could you really comment on what were the fundamental flaws in the design of this particular program that allowed these abuses to take place, and what should we as a Government propose in the future so that this doesn't happen?

Mr. HANKES-DRIELSMA. Well, I think each member of the Security Council should ensure that first of all, there is a mechanism whereby these problems can be brought to the attention of the members of the Security Council, but more importantly, because as I've already said in my testimony, there were times that these issues were raised at the Security Council. But there appears to have been almost once it had been raised, that was it, nothing more needed to be done, there wasn't a proper follow-out. People weren't brought back to report on what had been done. And this of course is both a problem with members of the Security Council and responsibility of the Secretary General or 611 Committee.

Mrs. MALONEY. And we were given the example of buying 300 luxury cars. This was approved by the Security Council members. You don't need an audit to know that this was a misuse of a humanitarian aid program to help the people. So what is your recommendation to stop that type of thing?

Mr. HANKES-DRIELSMA. In my opening statement, I think there is a real problem when you have members of the Security Council who are part of corrupting the system. And until there is a real review of how the U.N. can operate with integrity and not have such conflicts, its credibility will be questioned. It is terribly important that the U.N. can be seen as it was in the past, it's a great deal of very important things, that it can operate with integrity.

Mrs. MALONEY. What is your suggestion if member states of governments who are in a position to stop corruption, they see the corruption and they don't take an action? What is your recommendation there?

Mr. HANKES-DRIELSMA. They should be excluded from being members of the Security Council.

Mrs. MALONEY. OK. But who has the authority to exclude them?

Mr. HANKES-DRIELSMA. That is one of the big challenges, and that is why I suggest that there needs to be a proper review. Because there were a number of countries.

Mrs. MALONEY. But what we're hearing is that there was a review, there were suggestions, there were audits placed before them, and people did not hold up the contracts.

Mr. HANKES-DRIELSMA. International politics overtook common sense.

Mrs. MALONEY. I yield some time to my colleague, Mr. Ose, and Mr. Ruppertsberger.

Mr. OSE. I have but one question, and I thank the lady for yielding. Is there an overlap in the membership between the 661 Committee and the Security Council?

Mr. HANKES-DRIELSMA. Yes, there is.

Mr. OSE. For the record, would you be able to provide to us a list of the members on the Security Council, compared with a list of the members on the 661 Committee?

Mr. HANKES-DRIELSMA. Could I do that in writing, please, Congressman?

Mr. OSE. Yes. I thank the gentlelady.

Mrs. MALONEY. And reclaiming my time, the information that you have uncovered, the allegations that you have uncovered, you'll be able to track exactly where the money went and how much abuse took place, correct?

Mr. HANKES-DRIELSMA. Yes. So far, KPMG and I have been impressed with the detail, the meticulous records that have been kept in the ministries, the professionalism of the civil servants in those ministries, the instructions which were initially signed. And we're hoping that the report can be very detailed and very extensive. It will take time, particularly to trace and recover funds. And for that reason, it may well be that there will be three phases of the report, first the evidence that was secured, and then following on from there, the action that can be taken.

But time is of the essence. Certainly when I was in Baghdad last time with KPMG, we obtained some very important information which may have been lost forever. That this report is being delayed for almost up to 2 months—

Mrs. MALONEY. Why is this report being delayed?

Mr. HANKES-DRIELSMA. The report was delayed when Ambassador Bremer decided that whoever was going to do the report needed to go through a tender process. And the choice of KPMG had been very straightforward. I had never even met Mr. Adam Bates before, who was heading the investigation. But I was informed that he was one of the most competent and highly regarded people in the world. He had worked with Mr. Volcker on the holocaust investigation. He had set up the anti-fraud department in the Bank of England. He had done the Bearing investigation.

So after meeting with him and after KPMG agreed that he personally would undertake this report and spend the time on it, I recommended to the IGC. However, Mr. Bremer said that the funds from the Iraq development fund would not be made available to the Iraq Governing Council unless they had gone through a tender process.

So the KPMG report team had already been in Baghdad twice, left Baghdad, stopped its work to go back to London and prepare a report. Within 24 hours of this decision by Ambassador Bremer that he would not release Iraqi funds from Iraq Development Fund for the Iraq Governing Council to do this report unless this happened, the Iraq Governing Council put out a tender to the four leading audit firms: Price Waterhouse Coopers, Ernst and Young, Deloitte, and KPMG. And on Sunday, this last Sunday the 18th, they reviewed with the CPA present those documents and the proposals and appointed KPMG, which was subsequently endorsed by unanimous decision by the Governing Council.

Mrs. MALONEY. But you mentioned you were afraid that the information may be lost. Can't KPMG come back in and find that information they were reviewing?

Mr. HANKES-DRIELSMA. No, what I said was that time is of the essence. Evidence can and may be lost. And it's being lost all the time. In one case, it was some very important documents concerning the BNP issue. They had actually been saved from water damage and fire damage by an official. That official, we were very concerned that information wouldn't actually get to us. Because if any, it's quite likely that person would have lost their lives if it got out that they had that information.

And so I do believe that it's terribly important, and tracing, too. I expect shredders are working around the clock at this very moment. And the sooner legal action can be taken to recover hundreds of millions of dollars which are still in accounts which belong to the Iraqi people, hundreds of millions, and action needs to be taken, and it needs to be taken now.

Mrs. MALONEY. My time is up. Thank you for your testimony.

Mr. SHAYS. Thank you. I just want to almost pause a second and have people hear your last comment in this subcommittee. This is not something that you voiced yesterday. This is a concern that has existed for a long time.

As I stated, we received a letter from the Ambassador of France, from France to the United States. We appreciate his letter and we appreciate the article that he enclosed. I think there's lots for this committee to think about. But I want to read a paragraph or two and have you react to it. He submitted this letter along with an article. And he said first, the "Oil-for-Food program was closely monitored by the members of the U.N. Security Council. Every single contract for every humanitarian purchase was formally approved by the 15 members of the Security Council, including France, the United States and Great Britain. Only the United States and Great Britain had expressly asked to see each complete contract. As a result, they were in the best position to know of any abuse or abuses or malfeasance. In fact, the American and British delegations never put a contract on hold on the grounds of a commercial malpractice, such as an illegal kickback."

I want to know how you react when you read that. What should I infer from what I just read?

Mr. HANKES-DRIELSMA. First of all, I can't comment on why, whether that information is accurate. Second, what I certainly perceive, and I refer to it in my testimony, is that there were certain members of the Security Council who were significant financial

beneficiaries from the Saddam Hussein regime. But if information was available to Britain and America, as it's clear some information was, because they raised it in the Security Council in 2000, but whether the appropriate action was taken certainly on the evidence so far is that it didn't.

Mr. SHAYS. Let me read another paragraph, and you kind of answered it with your comment. But again, respond to this paragraph. "Let me add that I am concerned that these allegations discrediting the United Nations are voiced at a time when a return of the United Nations to Iraq is being considered and when we are trying to work together to improve the situation in Iraq, and help the emergence of a sovereign and stable Iraq. I frankly don't understand why such finger pointing is taking place now, but I am confident that the independent U.N. inquiry will establish the truth."

Do you think it's fair to say that this finger pointing is taking place now, or do you think it actually began a lot sooner?

Mr. HANKES-DRIELSMA. It certainly began a lot sooner. There was extensive, at times, quite detailed press coverage, but people ignored it. And the Iraqi people deserve that this is looked into properly, and those that misuse the system are brought to account.

Mr. SHAYS. In his article that he wrote, in the second to last paragraph, he said, "France was never a major destination for Iraqi oil during the program. In 2001, 8 percent of Iraqi oil was imported by France, compared with 44.5 percent imported by the United States, which was the No. 1 importer all along."

I want to know the significance of the destination. I would like to know, is the 8 percent significant, is the 44.5 percent—I'm making an assumption, I'll just tell you, that somehow the U.S. fingers may be dirty in this process as well. I don't exclude us from that. Is it the destination issue or the people that did the transactions or both?

Mr. HANKES-DRIELSMA. Well, it's why in one of the questions I put to the Secretary General, why did the U.N. approve non-end users.

Mr. SHAYS. What does that mean?

Mr. HANKES-DRIELSMA. Which means it is not a company, like an oil company who has refineries, a BP or Shell or an Exxon. It is an oil trader who can then basically disguise—

Mr. SHAYS. It's a middleman.

Mr. HANKES-DRIELSMA. A middleman. And I went on to say in my letter if you did approve, what did you have in place to understand who the ultimate beneficiaries were. And part of the process, of the KPMG report, but also hopefully be able to trace those oil deliveries and identify who were the ultimate beneficiaries of the oil, but equally importantly, of the cash.

Mr. SHAYS. What would be the logic if it wasn't anything but corruption for someone to voluntarily sell their oil for less, than the market price? What would be the logic? I can't think of any logical reason why someone would want to get less than the market price.

Mr. HANKES-DRIELSMA. There are all sorts of, I think that, I agree with that. And even the fixing of the oil price at the U.N. was a major, of the 611 Committee, was a major problem.

Mr. SHAYS. You mean they would set the oil price?

Mr. HANKES-DRIELSMA. They would set the oil price.

Mr. SHAYS. But that didn't guarantee that the end user got that below the market price. It just meant that a middleman got it below the market price, correct?

Mr. HANKES-DRIELSMA. Middleman got it below the market price, and at times, one state, there were meant to be three members of the committee, there was only one Russian on that committee who set the price, and to the best of my knowledge, he had no oil experience at all. Whenever new members were submitted, the Russians vetoed those members. But this is something that will come out in more detail.

Mr. SHAYS. You know, I feel like you're a wealth of information and we're just not asking the right questions. If you left this subcommittee and didn't share that with us, it would be a dereliction of duty. So the next question I'm going to ask you is, is there anything I need to ask you, and my failure to ask you means that you will leave not fully living up to your obligations coming before this subcommittee?

Mr. HANKES-DRIELSMA. Congressman, we might be here all evening.

Mr. SHAYS. And you're under oath. I mean, I don't want to play a game here. I don't want to find out from my staff we should have asked you this question or that question. Let me ask you this question. But I'm also going to ask that you voluntarily disclose anything that you think is important, even if we fail to ask.

But one question is, did you get the support of Mr. Bremer, and did the Iraqi Governing Council get the support from Mr. Bremer to do its job of determining what was happening with the Oil-for-Food program?

Mr. HANKES-DRIELSMA. Well, I tried to see, when I became aware of some of the information from the ministries, I immediately tried to see Ambassador Bremer. In fact, I called his office four times to set up meetings over a 10-day period. Unfortunately, his schedule didn't allow. That's when I wrote to the Secretary General.

Subsequent to that, when KPMG had been appointed, first appointment, when they were first appointed, I went to see Owen Withington, who is a representative, I believe he reports to No. 3 in the Treasury, the U.S. Treasury. Very competent, capable man who was totally supportive of what we were trying to do, and offered to assist and make sure that they cooperated in whatever way they could. That was very encouraging.

It was only subsequent to that Ambassador Bremer then decided that this shouldn't really be handled by the Iraq Governing Council, who by the way had involved the Iraq audit bureau as well in this, in the discussions. And my perception was that he was almost trying to usurp the role of the Iraq Governing Council, which was most unfortunate. Because they had acted professionally, with full transparency, in dealing with this.

Mr. SHAYS. This is a bias that I have. I've been to Iraq five times, and four times outside the umbrella of the military. I've spoken to close to hundreds of Iraqis. And they have a plea to us. They say they want this to be an Iraqi revolution, not an American revolution. Just as with all due respect, when we took off the yoke of bondage from Great Britain, we had the help of the French in not

allowing the Brits to come into port or leave port. But it was never a French revolution, it was our revolution.

It would just strike me, in those feeble moments, when the Iraqi Council is saying, give us the chance, my God, go out of your way to give them the chance to do things, even frankly if they screw up a little bit. Or at least don't do it the way we want. So I find that very unsettling. Let me just get to one other area, maybe two.

I am interested to know if you have seen any documents that deal with any interaction between the U.N. program head, Benan Sevan, and the Hussein regime. I am interested to know if these documents discuss the transfer of oil from Iraq to Sevan, and if these were in fact maybe illegal. Did you see any documents like that, or did you hear about any documents like that?

Mr. HANKES-DRIELSMA. I have seen very specific documents, and I will describe them to you. But I cannot draw any conclusions from having seen those documents.

Mr. SHAYS. OK.

Mr. HANKES-DRIELSMA. First of all on the list, which was prepared by Iraqi government officials, which I first saw in December, the name Mr. Sevan appeared. Not Mr. Benan Sevan, Mr. Sevan. And an oil allocation of just over 7 million barrels of oil.

Subsequent to that, I was shown documents, one document which is a memorandum approved by a very senior government official——

Mr. SHAYS. In Iraq?

Mr. HANKES-DRIELSMA. In Iraq, under Saddam Hussein's regime, which states that Mr. Benan Sevan had called the Iraq representative in New York to inform him that the company he had mentioned when he last visited Baghdad was a specific Panamanian company. This memorandum was approved and countersigned by several people, and we believe it to be a genuine document. But we need to await the ultimate report from KPMG on this.

Third, there was a document which very specifically states, allocations to Mr. Benan Sevan. And again, this adds up to roughly the same amount, the allocations, the approved allocations were larger, but the actual amount of the allocation amounted to just over 7 million. And these amounts on that list coincide, are exactly the same amounts that were made to the Panamanian company that he referred to in his letter, or was referred to, rather, in the memorandum of his discussion with the Iraqi representative in New York.

KPMG, these documents by the way, I have given those to the internal oversight fund of the U.N. And it is for the U.N. report of investigation and also for KPMG to do the necessary forensics to trace these funds and to try and establish who the ultimate beneficiaries are. But the one thing I can say, that in that case, and in the case of others whether there's a former French Ambassador to the United Nations, whether there's the president of Indonesia, or whether it's the son of a former Russian ambassador, it raises the question why are these people on the record as having received oil coupons when they're not natural oil traders.

Mr. SHAYS. Thank you. Would you identify Mr. Sevan as——

Mr. HANKES-DRIELSMA. Mr. Benan Sevan is the man who had overall responsibility for administering the Oil-for-Food program at the United Nations.

Mr. SHAYS. I don't have any other questions. Does any other member? Then we need to get to our next panel. I just wanted to say to the Members, I told one of the panelists, or my subcommittee did, that we would be done by 3:15, so he has a flight ready to go at 3:15. And so I just wanted the Members to know that.

Mr. RUPPERSBERGER. Since you're here and you seem to have a lot of knowledge, if these allegations are true, we've got to move quickly. You're right, an investigation, you lose evidence, and that was my issue today, following the hard evidence.

I just want to ask you a couple of questions. First thing, you talk about the list that was released for the different companies, companies in different countries. I want to ask you specifically, on that list that you referred to as where the corruption has occurred, who on that list, do you have knowledge of anyone on that list, any company or individual that is from the United States of America?

Mr. HANKES-DRIELSMA. There are names on that list who live in America. I do not know whether they are U.S. citizens or not. And that list is only one part of the whole issue that needs to be looked at as those who benefited, possibly benefited under the delivery of oil, sale of oil coupons.

Mr. RUPPERSBERGER. One of my concerns is that anyone on that list, if the allegations are proved to be true, then they would have had a reason to keep Saddam Hussein in power because they were benefiting financially. Now, you said that about the United States and you didn't give any detail. Do you have any detail about any other countries or individuals or companies that would have been on that list that are blatant and out front that there might be some hard evidence we can deal with.

Mr. HANKES-DRIELSMA. Well, in the same way that the ones I referred to, but I don't believe any action can be taken until the report, the KPMG report and the Freshfields legal advice—

Mr. RUPPERSBERGER. By the way, you're talking about that report. Do they have the expertise to authenticate—

Mr. HANKES-DRIELSMA. Yes, they do. They are forensic accountants. That is precisely their expertise. But you know, as of today, there is still no proper commitment from the Iraq Development Fund to provide the funds to do this report.

Mr. RUPPERSBERGER. I just want to make it clear for the record, you represent the Iraqi Governing Council, but you're not representing them here today. You're here—

Mr. HANKES-DRIELSMA. I'm an advisor to the Iraq Governing Council and I was asked to testify.

Mr. RUPPERSBERGER. But you're saying you're working with the U.N. and you're representing the Iraqi Governing Council tomorrow morning to present them allegations and evidence, is that—

Mr. HANKES-DRIELSMA. No, I said that I would be meeting with Mr. Volcker tomorrow morning—

Mr. RUPPERSBERGER. OK.

Mr. HANKES-DRIELSMA [continuing]. To make sure that, and with Mr. Adam Bates, who is heading the investigation for KPMG, to discuss how we might be able to cooperate. I've had previous meet-

ings with the internal oversight department of the U.N. and provided them the information that they requested at that time.

Mr. RUPPERSBERGER. Is anyone from the U.N. discouraging you meeting with Volcker?

Mr. HANKES-DRIELSMA. Nobody has, but I'm not sure they are aware of it.

Mr. RUPPERSBERGER. Well, he basically—he was appointed and he's a good man, and I think from what I understand, the committee that was appointed by the U.N. has a lot of credibility. What happens to you when the Iraqi Governing Council is dissolved?

Mr. HANKES-DRIELSMA. I have no idea.

Mr. RUPPERSBERGER. You haven't had any discussions?

Mr. HANKES-DRIELSMA. I've had no discussions, I will continue to be available to help Iraq in the best possible way I can.

Mr. RUPPERSBERGER. You were hired by the finance committee of the Iraqi Governing Council.

Mr. HANKES-DRIELSMA. Endorsed by the Governing Council.

Mr. RUPPERSBERGER. Right. And who chairs that committee?

Mr. HANKES-DRIELSMA. Dr. Chalabi.

Mr. RUPPERSBERGER. OK. Now, just a little on motives, you probably won't be able to answer it, but I want to get it out again. Does the Iraqi Governing Council in any way profit through selling documents? A lot of people sell documents, sell newspapers and whatever. I'm trying to find out if there's any profit motive for the Iraqi Governing Council other than what would be in the best interest of Iraq, to move forward to push this investigation forward at this time. Or do you have any knowledge, not the Iraqi Governing Council but there are people out there attempting to sell documents to perpetuate this broad scheme of corruption?

Mr. HANKES-DRIELSMA. No, almost, my impression is the opposite. We've had full cooperation. They've welcomed it, officials, government officials, civil servants have come forward and including the Kurds, I'll be meeting with the Kurdish representative in New York again tomorrow afternoon. They've already done the detailed report for the KPMG people to produce the evidence from their side, their story. KPMG will again look into all their allegations.

So the opposite is true. So far, there's been full cooperation in every possible quarter in Iraq.

Mr. RUPPERSBERGER. You know, you've made some pretty harsh, almost indictments of corruption and people involved in the United Nations and other countries. And if they're true, we need to move forward. I hope you are the real thing. Because if you are, you could be extremely helpful. But I just hope that you have hard evidence and facts and data, and that we have investigators that are competent and qualified. And if you don't, and if you're very worried after your cooperating and you feel there's something, I know Chairman Shays would love to hear from you, as I know members of this committee, if there's any way that we could deal with the issues or if you feel that something is being blunted.

I have one or two questions from the ranking member.

Mr. SHAYS. We really need to move on here. Let's ask the question, it's from the ranking member.

Mr. RUPPERSBERGER. Yes, it's the ranking member, and I'm not the ranking member, so I don't want to get in trouble.

Mr. SHAYS. Of the full committee?

Mr. RUPPERSBERGER. Yes, of the full committee, Mr. Waxman. You've expressed some serious concerns about the operations of the Oil-for-Food program. Do you think the Development Fund for Iraq, the DFI, has been used in a transparent and accountable manner, and are you aware of any specific problems with the Development Fund for Iraq?

Mr. HANKES-DRIELSMA. I'm not aware of any problems. I am aware that there's been lack of transparency and accountability.

Mr. RUPPERSBERGER. OK, thank you on behalf of Mr. Waxman.

Mr. SHAYS. Mrs. Maloney, and then we're going to go to Mr. Ose, then we're going to go to our next panel. It's got to be quick, though.

Mrs. MALONEY. Just very, very briefly. Do you support the Bush administration's endorsement of a more central role for the United Nations in the political transition toward Iraqi sovereignty?

Mr. HANKES-DRIELSMA. I don't want to be politicized, I'm just, as I said in my testimony, I'm greatly concerned about the credibility of the U.N. at this time. For that reason, I wrote to Kofi Annan before I wrote to anybody else, so that he could take the moral high ground and lead this. And as I said in my statement, I think at the moment, given what's happened, and I actually believe that the eventual report will produce something of the magnitude that most of us haven't even begun to understand. And it will be very serious.

Mrs. MALONEY. Thank you.

Mr. SHAYS. Thank you. Mr. Ose. You've got one, this is your last question.

Mr. OSE. Well, Mr. Chairman, I'm afraid I don't have just one question. I'm wondering if Mr. Hanks-Drielsma would be willing to stick around so we get past the witness who's has the 3:15 plane.

Mr. SHAYS. Were you planning to stay through the rest of this hearing?

Mr. HANKES-DRIELSMA. I'm certainly available to stay.

Mr. SHAYS. If you don't mind, I think that's a solution.

Mr. HANKES-DRIELSMA. Not at all.

Mr. SHAYS. I think it would be good if you would be willing to maybe come back right after we hear from the next panel. It's rather a good suggestion, actually.

Mr. HANKES-DRIELSMA. Certainly.

Mr. SHAYS. Thank you very much.

So we're going to go to our third panel. Our third panel is Dr. Nimrod Raphaeli, senior analyst, Middle East Media Research Institute; Dr. Nile Gardiner, fellow in Anglo-American Security Policy at the Heritage Foundation; Ms. Claudia Rosett, senior fellow, Foundation for the Defense of Democracies and Adjunct Fellow, Hudson Institution; and Dr. Edward C. Luck, director, Center on International Organization, School of International and Public Affairs, Columbia University.

I don't know the personal challenges of the other three, but my staff told Dr. Luck that we would be done by about 3 p.m. I think the fact my staff thought that was, they didn't realize we would have so many show up to give opening statements, or we would be an hour ahead of ourselves right now.

Without objection, I'm going to have Dr. Luck speak. We may ask you a question or two or we may not. One way to solve this issue would be to not speak more than 5 minutes each, and then we can get into a nice dialog. But Dr. Luck, you're on. I do need to swear you in.

If you would all stand, please. Raise your right hands.

[Witnesses sworn.]

Mr. SHAYS. Note for the record all four of our witnesses have responded in the affirmative. I want to say that this panel is as important as the other panels. You happen to be No. 3. But you have one advantage, and that is, you've heard the questions that have been asked. There may be things you want to simply say that aren't in your statement and just put your statement in the record. Feel free to answer any question that was asked, make any point that you want to make. You're here because we have tremendous respect for your knowledge about this issue and so many other issues.

Dr. Luck.

STATEMENTS OF EDWARD C. LUCK, PROFESSOR OF PRACTICE IN INTERNATIONAL AND PUBLIC AFFAIRS AND DIRECTOR, CENTER ON INTERNATIONAL ORGANIZATION, SCHOOL OF INTERNATIONAL AND PUBLIC AFFAIRS, COLUMBIA UNIVERSITY; CLAUDIA ROSETT, JOURNALIST, SENIOR FELLOW, THE FOUNDATION FOR THE DEFENSE OF DEMOCRACIES, ADJUNCT FELLOW, THE HUDSON INSTITUTE; NILE GARDINER, FELLOW, ANGLO-AMERICAN SECURITY POLICY, THE HERITAGE FOUNDATION; AND NIMROD RAPHAELI, SENIOR ANALYST, MIDDLE EAST MEDIA RESEARCH INSTITUTE

Dr. LUCK. Thank you. I should say that if it's helpful for me to stay a bit longer, I am supposed to give a speech in New York, but if I'm a little bit late, they'll survive. I think this is important.

Mr. SHAYS. Thank you.

Dr. LUCK. Thank you, Mr. Chairman, for the opportunity to testify before this distinguished subcommittee on a matter of urgency both to our national security and to the integrity of the United Nations system. Today I will address three core issues: one, how did we get into this mess? Two, what conditions permitted alleged corruption and malfeasance of this magnitude? And three, what steps might reduce the likelihood of such abuses in the future?

First, permit me to make four preliminary points. One, whatever diversions or distortions took place along the way, the Oil-for-Food program still accomplished its primary humanitarian and political mission. More than \$30 billion in humanitarian assistance was delivered to the Iraqi people, cutting chronic malnutrition, including for children, in half. The program also funded some \$16 billion in war reparations and, importantly, paid for the UNSCOM and UNMOVIC operations that uncovered and destroyed so much of Saddam Hussein's capacities to produce weapons of mass destruction. By easing the acute humanitarian crisis that had seriously undermined political support for the sanctions regime, the program permitted the extension of the international efforts to deny Baghdad further arms and strategic items.

Two, it was entirely predictable that Saddam Hussein would seek to make money off the Oil-for-Food program, and ironically to use some of his ill-gotten gains to try to circumvent the very arms sanctions that the program was intended to reinforce. He had spent much of his reign trying to prove Lord Acton's rule that power corrupts and absolute power corrupts absolutely. Besides, it had long been known that a frequent by-product of sanctions, whenever and wherever they are imposed, is a flourishing of black markets and elite corruption. Clearly, the controls put in place given these factors were entirely inadequate to the task.

Three, it is a healthy sign that Secretary General Annan has established a high level independent panel, to be headed by Paul Volcker, to investigate possible malfeasance within the world body; and that the Security Council has unanimously, if hesitantly, endorsed it; and that both Houses of Congress, the GAO and the Iraqi authorities are undertaking serious reviews of the matter. On the other hand, it is less clear whether other member states, especially those whose firms or officials may be implicated, will undertake similar public investigations.

Four, for the credibility of these exercises, it is essential to avoid premature or simplistic scapegoating and finger pointing, especially in an election year. In Washington, the shortcomings were bipartisan as neither the Clinton nor Bush administrations gave sufficient priority to early signs of trouble. At the United Nations, key member states, beginning with the members of the Security Council, but including several of Iraq's neighbors, were no doubt complicit in the evident failings of the Secretariat.

In terms of historical context, the indecisive way in which the first Gulf war ended weakened the political foundations of the subsequent sanctions regime. The U.S. decision not to occupy Iraq, and thus to leave an embittered, devious, and thoroughly corrupt Saddam Hussein in power, set the stage for a dozen frustrating years of trying to contain his ambitions and excesses. Even in 1991, there was little international support for the occupation of Iraq by the United States or by the U.S.-led coalition. Instead, in its omnibus Resolution 687 of April 1991, the Security Council tried to have it both ways, asserting Iraqi sovereignty yet imposing the kinds of intrusive post-war conditions that have historically been reserved for a state that had been conquered, not just defeated on the battlefield.

Iraqi sovereignty, in essence, was left in limbo, asserted in principle but highly circumscribed in practice. This ambiguity allowed Saddam, on the one hand, to blame the United States, the U.N. and the sanctions imposed in 1990 for the plight of his people before the Oil-for-Food program was launched; and then, on the other hand, to loot and exploit the program whenever possible once the oil and humanitarian assistance began to flow.

In retrospect, the most glaring error was to put the fox in charge of the chicken coop, by allowing the Iraqi regime to decide with whom and on what terms to do business, whether concerning oil sales or the provision of humanitarian assistance. According to Ambassador Negroponte, this arrangement was adopted "at the insistence of many other Security Council members." It appears that

there were fewer problems in the northern Kurdish areas where the U.N. handled humanitarian assistance directly.

Now, in terms of conditions for abuse, it should be remembered that sanctions always offer tempting avenues for corruption and that Saddam Hussein was given a voice in deciding how the program was implemented. Thus, it would have been a minor miracle if substantial abuses had not occurred. Five additional, interrelated factors worked to make a bad situation worse.

One, over much of the dozen years preceding the 2003 war, the five permanent members of the U.N. Security Council had been deeply divided over how to handle Iraq. Again and again, whether on sanctions, weapons inspections or the use of force, the United States and the United Kingdom took a harder line and France, Russia and China a softer line. The latter three, supported by many other member states, were more concerned with preserving Iraqi sovereignty, whether for reasons of principle, economics, or geopolitics. As such, they were more willing to tolerate Iraqi abuses of the Oil-for-Food program and of oil export controls than were Washington or London. The many spoilers in Baghdad no doubt saw ample opportunities to employ splitting tactics, including through the awarding of lucrative contracts.

Two, on policy issues, the U.N. Secretariat is schooled to follow the lead of the member states, particularly when implementing Security Council mandates. When the most influential member states are split and emitting mixed signals, the Secretariat tends to adopt a low profile, performing their jobs but avoiding controversy and headlines. In such circumstances, potential whistle blowers may well be reluctant to step forward. And when the Secretariat did bring Oil-for-Food discrepancies to the Council's attention in November 2000, most members claimed they could not respond without the kind of documentation that is only beginning to become available with the fall of Saddam Hussein.

Three, the humanitarian community and the media, which had pressed so hard to have a mechanism put in place to ease the suffering of the Iraqi people, seemed far less interested in the operational integrity of the Oil-for-Food program once it got underway. As long as visible progress was being achieved on the humanitarian front, they found little reason to be exercised about the pattern of financial abuse that accompanied it.

Four, even for the United States and U.K., as Ambassador Negroponte confirmed, the bottom line was that security and geopolitical interests, particularly worries about Baghdad's efforts to acquire weapons of mass destruction, trumped their parallel concerns about the management and integrity of the program.

Five, as is general practice, the 611 Committee formed to oversee the sanctions on Iraq included all 15 members of the Security Council and made decisions on the basis of consensus. This put a premium on maintaining at least a semblance of cooperation among the Council members. So the United States and U.K. raised corruption worries at several points in the committee, but could not or would not press them to the political breaking point.

In terms of future steps, one of the simplest fixes would be to waive the unanimity rule in Security Council sanctions committees when it comes to initiating an independent review of abuse or mal-

feasance charges related to the implementation of a Council-authorized sanctions regime. For example, such a request to the President of the Council by the Secretary General or any 3 of its 15 members might automatically trigger such a probe.

Second, the Security Council could consider establishing a standing panel of independent experts, a, to monitor the implementation of Council-mandated sanctions regimes, b, to evaluate abuse complaints from the Secretariat or independent sources, c, to report to the Council worrisome developments, and/or d, to carry out more in-depth investigations as requested by the Council under the modified rules outlined above. It would probably make sense to set up such a core group on a generic and as-needed basis, with specialists with regional or sectoral expertise added as required to cover specific sanctions regimes.

Third, as standard procedure, Security Council resolutions establishing sanctions regimes should specify that the state or party being sanctioned should have no say over any aspect of the sanctions regime, including related humanitarian programs.

Fourth, the Security Council should consider ways in which to bring greater transparency and accountability to the proceedings of its sanctions committee. The ultimate responsibility for the implementation of the Iraqi sanctions lay with the 661 Committee, whatever mistakes or malfeasance on the part of the Secretariat are uncovered by the ongoing probes.

Both sides of this sorry equation need to be pursued with equal vigor. A half fix will not do when the world is sorely in need of integrity as well as leadership, and when the resolution of pressing issues requires higher standards of cooperation between governments and international bodies. The efforts of your subcommittee, Mr. Chairman, will hopefully represent an important step in that direction. Thank you.

[The prepared statement of Dr. Luck follows:]

**CENTER ON INTERNATIONAL ORGANIZATION
SCHOOL OF INTERNATIONAL AND PUBLIC AFFAIRS
COLUMBIA UNIVERSITY**

Hearing On

“The Iraq Oil-for-Food Program: Starving for Accountability”

**Subcommittee on National Security, Emerging Threats
and International Relations
Committee on Government Reform
of the United States House of Representatives**

April 21, 2004

Statement

by

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Thank you, Mr. Chairman, for the opportunity to testify before this distinguished Subcommittee on a matter of urgency both to our national security and to the integrity of the United Nations system. Today I will address three core issues: 1) how did we get into this mess?; 2) what conditions permitted alleged corruption and malfeasance of this magnitude?; and 3) what steps might reduce the likelihood of such abuses in the future?

First, permit me to make four preliminary points.

- One, whatever diversions or distortions took place along the way, the oil-for-food program still accomplished its primary humanitarian and political missions. More than \$30 billion in humanitarian assistance was delivered to the Iraqi people, cutting chronic malnutrition, including for children, in half. The program also funded some \$16 billion in war reparations and – importantly – paid for the UNSCOM and UNMOVIC operations that uncovered and destroyed so much of Saddam Hussein's capacities to produce weapons of mass destruction. By easing the acute humanitarian crisis that had seriously undermined political support for the sanctions regime, the program permitted the extension of the international efforts to deny Baghdad further arms and strategic items.
- Two, it was entirely predictable that Saddam Hussein would seek to make money off the oil-for-food program and, ironically, to use some of his ill-gotten gains to try to circumvent the very arms sanctions that the program was intended to reinforce. He had spent much of his reign trying to prove Lord Acton's rule that power corrupts and absolute power corrupts absolutely. Besides, it had long been known that a frequent by-product of sanctions, whenever and wherever they are

imposed, is a flourishing of black markets and elite corruption. Clearly the controls put in place, given these factors, were entirely inadequate to the task.

- Three, it is a healthy sign that Secretary-General Annan has called for a high-level independent inquiry into possible malfeasance within the world body and that both Houses of Congress, the GAO, and the Iraqi authorities are undertaking serious reviews of the matter. On the other hand, it is less clear whether other Member States, especially those whose firms or officials may be implicated, will undertake parallel public investigations. It is particularly discouraging – though indicative of one of the principal roots of the scandal – that Russia, France, and China have shown so little enthusiasm for a new Security Council resolution to compel cooperation with the Secretary-General’s review.
- Four, for the credibility of these exercises, it is essential to avoid premature or simplistic scapegoating and finger-point, especially in an election year. In Washington, the shortcomings were bipartisan, as neither the Clinton nor Bush Administrations gave a sufficient priority to early signs of trouble. At the UN, key Member States, beginning with the members of the Security Council but including several of Iraq’s neighbors, were no doubt complicit in the evident failings of the Secretariat.

Historical Context

The indecisive way in which the first Gulf War ended weakened the political foundations of the subsequent sanctions regime. The US decision not to occupy Iraq and, thus, to leave an embittered, devious, and thoroughly corrupt Saddam Hussein in power set the stage for a dozen

frustrating years of trying to contain his ambitions and excesses. Even in 1991, there would have been little international support for the occupation of Iraq by the United States or by the US-led coalition. Instead, in the omnibus resolution 687 of April 1991, the Security Council tried to have it both ways: asserting Iraqi sovereignty yet imposing the kinds of intrusive post-war conditions that have historically been reserved for a state that had been conquered, not just defeated on the battlefield. Iraqi sovereignty, in essence, was left in limbo: asserted in principle but highly circumscribed in practice.

This ambiguity allowed Saddam on the one hand to blame the US, the UN, and the sanctions imposed in 1990 for the plight of his people before the oil-for-food program was launched; and then on the other to loot and exploit the program whenever possible once the oil and humanitarian assistance began to flow. In retrospect, the most glaring error was to put the fox in charge of the chicken coop by allowing the Iraqi regime to decide with whom and on what terms to do business, whether concerning oil sales or the provision of humanitarian assistance. According to Ambassador Negroponte, this arrangement was adopted “at the insistence of many other Security Council members.” It appears that there were fewer problems in the northern Kurdish areas, where the UN handled humanitarian assistance directly.

Conditions for Abuse

Given that sanctions always offer tempting avenues for corruption and that Saddam Hussein was given a significant voice in influencing how the program was implemented, it would have been a minor miracle if significant abuses had not occurred. Five additional, inter-related factors worked to make a bad situation worse.

- One, over much of the dozen years preceding the 2003 war, the five permanent members of the UN Security Council were deeply divided on how to handle Iraq. Again and again, whether on sanctions, weapons inspections, or the use of force, the US and the United Kingdom took a harder line and France, Russia, and China a softer line. The latter three, supported by many other Member States, were more concerned with preserving Iraqi sovereignty, whether for reasons of principle, economics, or geopolitics. As such, they were more willing to tolerate Iraqi abuses of the oil-for-food program and of oil export controls than were Washington and London. The many spoilers in Baghdad no doubt saw ample opportunities to employ splitting tactics, including through the awarding of lucrative contracts.
- Two, on policy issues the UN Secretariat is schooled to follow the lead of the Member States, particularly when implementing Security Council mandates. When the most influential Member States are split and emitting mixed signals, the Secretariat tends to adopt a low profile, performing their jobs but avoiding controversy and headlines. In such circumstances, potential whistle blowers may well be reluctant to step forward. And, when the Secretariat did bring oil-for-food discrepancies to the Council's attention, most members claimed that they could not respond without the kind of documentation that is only beginning to become available with the fall of Saddam Hussein.
- Three, the humanitarian community and the media, which had pressed so hard to have a mechanism put in place to ease the suffering of the Iraqi people, seemed far less interested in the operational integrity of the oil-for-food program once it

got underway. As long as visible progress was being achieved on the humanitarian front, they found little reason to be exercised about the pattern of financial abuse that accompanied it. Complaints about corruption apparently had less public and media appeal.

- Four, even for the US and the UK, as Ambassador Negroponte confirmed, the bottom line was that security and geopolitical interests, particularly worries about Baghdad's efforts to acquire weapons of mass destruction, trumped their parallel concerns about the management and integrity of the program. They needed 1) the sanctions regime to contain the security threat posed by Saddam and 2) the oil-for-food program to maintain sufficient political support to keep the sanctions in place.
- Five, as is general practice, the 611 Committee formed to oversee the sanctions on Iraq included all fifteen members of the Security Council and made decisions on the basis of consensus. This put a premium on maintaining at least a semblance of cooperation among the Council members. So the US and UK raised corruption worries at several points in the Committee, but could not or would not press them to the political breaking point.

Future Steps

One of the simplest fixes would be to waive the unanimity rule in Security Council sanctions committees when it comes to initiating an independent review of abuse or malfeasance charges related to the implementation of a Council-authorized sanctions

regime. For example, such a request to the President of the Council by the Secretary-General or any three of its fifteen members might automatically trigger such a probe.

Second, the Security Council could consider establishing a standing panel of independent experts a) to help monitor the implementation of Council-mandated sanctions regimes, b) to evaluate abuse complaints from the Secretariat or independent sources, c) to report to the Council worrisome developments, and/or d) to carry out more in-depth investigations as requested by the Council under the modified rules outlined above. It would probably make sense to set up such a core group on a generic and as-needed basis, with specialists with regional or sectoral expertise added as required to cover specific sanctions regimes.

Third, as standard procedure, Security Council resolutions establishing sanctions regimes should specify that the state or party being sanctioned should have no control over any aspect of the sanctions regime, including related humanitarian programs. Clearly their interests do not coincide with those of the Council in such cases.

Fourth, the Security Council should consider ways in which to bring greater transparency and accountability to the proceedings of its sanctions committees. The ultimate responsibility for the implementation of the Iraqi sanctions lay with the 661 Committee, whatever mistakes or malfeasance on the part of the Secretariat are uncovered by the ongoing probes.

Both sides of this sorry equation need to be pursued with equal vigor. A half-fix will not do when the world is sorely in need of integrity as well as leadership, and when the resolution of pressing issues requires higher standards of cooperation between

governments and international bodies. The efforts of your Sub-Committee, Mr. Chairman, will hopefully represent an important step in that direction.

Mr. SHAYS. Thank you very much.

Ms. Rosett.

Ms. ROSETT. Thank you, Mr. Chairman and distinguished members of the subcommittee, for this chance to testify before you.

I would like to enter my written testimony into the record with one correction on page 3, which is that we all keep referring to this program as the more than \$100 billion program. I actually looked at Kofi Annan's numbers, and it should be the \$111 billion. I have a typo there, which says \$101; \$111 makes all of what I'm about to say I think even more alarming.

I've been trying to think of how to explain the shape of this thing. This is such a large and complicated program that you can get lost in sort of a chamber of it and wander for a while. The best analogy I keep coming back to is this was DCCI, if that rings any bells here, the enormous worldwide criminal bank, but with several important differences. One is that this was a regime, not a bank, which had many links to extremely violent activities.

We were all worried about weapons of mass destruction, and I want to just lay out something for you where the more I have looked at this program, the more I am worried that you should be looking at the Oil-for-Food contracts with an eye not necessarily to weapons of mass destruction, but where exactly was all that money going. And if we're not finding weapons of mass destruction, had Saddam possibly found other conduits for his hostile impulses and this program would have served very naturally for those. I think there are actually security issues here.

I do not have proof, but the problem there is on many questions you will have, it's hard to get proof, because the United Nations has the documents. We don't have them. They're deliberately kept secret. And the recommendations that I made in my written testimony have to do with the two features that shaped this program as the fiasco I believe it has been. One was privilege and the other is secrecy.

Privilege, this whole thing was set up in such a way that it was a deal with the United Nations and Saddam Hussein in which the people of Iraq were wards of these two parties who had no say in anything whatsoever. At the very end, the Secretary General of the U.N. boasted that 60 percent of the people depended entirely on the Oil-for-Food rations.

In other words, more than half the population of a country of 26 million people depended entirely on the dole, as designed by the totalitarian ruler of a totalitarian state, with the assistance of the United Nations, which was doing this on commission from the tyrant. That's a design that's not going to work out well for the things the United Nations is supposed to defend, which I think are things like world peace and the interests of free people.

And with that design, the privilege here was just a mess. The Iraq people had no access to the numbers, they had no say in the distribution lists were drawn up, they had no say in anything. They showed up, presented their cards and were given whatever came in. Saddam, all of this was kept highly secret. I see I'm running out of time real fast.

I just want to say, Saddam got to draw up his own lists. You must see those lists. They are astounding, that the United Nations

could have sat there checking off, fine, sell oil to Liechtenstein, Panama, Cyprus, 12 companies in Switzerland among the first 50 buyers designated on the list. Anybody could tell, looking at that, that what was being set up was basically a global financial network in which Saddam was going to be able to do anything he chose and I do believe he did. He had every opportunity.

The kickbacks that you are looking at, it's not merely a matter of larceny, which is enormous and should be a huge concern. Remember that when somebody accepts a bribe, if each of you had been paid \$10 million by Saddam Hussein over the past few years, not only might you be inclined to do things his way, he would be able to blackmail you. Anybody that took a bribe from him, he has the goods on. Usually the protection there is, why would the guy who has the goods on you want to do anything.

Well, Saddam had a lot less to lose. He had already gamed this thing. He could get away with anything. He could put surcharges on the oil and the Security Council wouldn't stop him, because they were afraid that the whole thing would fall apart. And at that point, if indeed the bribes that we are worried about took place, Saddam was in a position to make these people do anything he wanted them to. They could expose him at far less risk to him than he would run in doing things to expose them.

So the entire structure of this thing was a situation in which basically I believe it is important for an investigation to be made that not only looks at what happened to the money, but gets into what worthy corridors that were set up. Those contract lists, kept secret by the United Nations, I believe at some risk to both security, integrity, etc., were Saddam's little black book. There is at this point, the United Nations' insistence on secrecy is absurd.

One other note. The questions of whether the DCMA, the Defense Contract Management Agency, could have better priced the contracts, there's another way that can also be done, which is have the U.N. simply disclose this information. And there was no excuse. The idea that it's the way the U.N. has always done everything, that Saddam was a sovereign ruler, he was a sovereign ruler under sanctions, infamous at that point for atrocities, wars, terrible things. There was no reason.

And may I just suggest to you that when someone makes an error, if this was a program in which the errors were, you know, what, the United Nations collected almost \$2 billion on commission, the weapons inspections, there were no weapons inspections for 4 years. They collected half a billion dollars, there is no public accounting for that money. There is no public accounting for any of it.

And when someone does that and makes errors of billions, B, the scale of this program has not yet begun to sink in, recall—I forget the exact figure, I should have looked it up, when people were worried about the amount of money that Osama bin Ladin inherited and had at his beck and call for whatever he does, it is dwarfed, absolutely dwarfed by the sums that were spare change, rounding errors, nothing, in this program. This is a man who wished us ill, we've all been very concerned about that.

And I believe if you start following the connections here you will see things that again, I cannot stress enough, both speed I think

is important and serious attention to the fact that I don't think it was negligence, I think there was a design here. And I say at the beginning of my written testimony that when I first began asking about this, I simply, I did not expect to see a scam, I just wanted to understand this complicated program. Each question led me further toward the conclusion that if it had been deliberately designed to be manipulated by Saddam, it could not have been improved, what was in place could not have been improved upon.

I think there is one final question I would add to that, which is we have the possibility of corruption during the program. It should be considered that this program be, the idea of setting it up goes back actually to just after the Gulf war in 1991. The U.N. was considering it for a while. Some of the links that are now in place were set up at that point, have been there for a while.

It is not impossible, given what we know, that it was corrupt before the very start. In other words, in the shaping, if you will look back and see that the Secretariat took the lead. Again, I understand you want proof, that's important. When Kofi Annan and Benan Sevan challenged us to produce the proof, the thing, the hypocritical, sleazy thing about that spectacle was that they themselves had designated the proof confidential. And saying, I'll now wrap this up, in saying that this was the responsibility of the Security Council.

Part of the problem with the U.N. is the buck stops nowhere. But it was the Secretariat that collected the money. The money here matters, the money was so big it matters at every step. They collected almost \$2 billion in commissions. Again, imagine if that were coming into your party, your office, what kind of a difference that would make in your attitude toward retaining a program and expanding it. It was the Secretariat that was the chief interlocutor with Saddam Hussein, that had the people on the ground, the Security Council by and large did not. The U.S. certainly did not.

And at some point, you must ask, when does somebody stand up and say, we are seeing incredible corruption. I guess I need to add one last thing, and that is, Kofi Annan helped negotiate this program before it began, the terms that kept things secret and let Saddam pick his own clientele. There is a serious appearance of conflict of interest with his son, and you're welcome to ask more about that. He appointed Benan Sevan, he kept him there through all that time. He visited Baghdad in 1998, he's been there, he knows the scene. And the notion that he really wasn't sure there had been any wrongdoing until finally these stories made it impossible to—when these hearings were announced—is ludicrous.

[The prepared statement of Ms. Rosett follows:]

149

Statement for the Record

of

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Journalist

Senior Fellow, The Foundation for the Defense of Democracies

And

Adjunct Fellow, The Hudson Institute

Before the House Subcommittee on National Security, Emerging
Threats, and International Relations

April 21, 2004

Mr. Chairman, distinguished members of the Committee, I thank you for the opportunity to testify here today.

Speaking as a journalist, I would like to tell you that when I first began asking questions about Oil-for-Food, in 2002, it was not with the aim of uncovering a scam. I wished simply to understand what appeared to be a complicated relief effort -- complications which, as we have since learned, served to veil a multitude of misdeeds. With almost every new detail I learned about the structure of the program, my astonishment grew. Had the United Nations deliberately set out to design a program open to manipulation by Saddam Hussein's regime, it is hard to think how the U.N. could have improved upon the arrangement that was put in place.

There has been by now such abundant evidence of corruption within the United Nations Oil-for Food program that today I will leave most of that detail—the more than \$10 billion in bribes, kickbacks, smuggling and so on—to others. I would like to focus, in brief, on why the staggering levels of corruption achieved by way of Oil-for-Food were not only possible, but were positively invited by the manner in which the UN operates. Unless these failings of structure and custom are remedied, there is every reason to expect further variations on the extravaganzas of graft we have now begun to explore.

It bears noting upfront that the U.N. has no effective mechanisms of checks, balances, and disclosure. What finally began to bring some daylight to this program was certainly not any initiative on the part of the U.N. — where Secretary-General Annan and his senior staff at every turn sought to continue and expand Oil-for-Food. Nor was it any initiative of the Security Council—where the project of funneling relief through sanctions quickly became a rationale for huge flows of corruption-laden business between Iraq and such major UN players as France, Russia, and China. What finally flushed Oil-for-Food into the open was that Saddam's regime fell. It is obvious that there were many parties to Saddam's business who expected him to remain in power, protecting the confidential records of dirty deals; and it may be more than coincidence that some of his favored business partners—notably Russia and France, but also the UN Secretary-General himself (flush with its Oil-for-Food commissions and clout)—lobbied to keep Saddam in power.

There were immense conflicts of interest at work here. There was no effort on the part of the U.N. to inform the public of that fact—though the U.N., and the Secretariat in particular, had access to the financial details of Oil-for-Food, and the public did not. Notably, there was no word about these conflicts of interest from the Secretary-General. Mr. Annan was one of the chief negotiators in the mid-1990s of the terms of Oil-for-Food; he picked its Executive Director, Benon Sevan, who reported directly to him; and he was boss of the program from its second month in operation, January, 1997, until the

UN turned it over to the U.S.-led coalition in Baghdad in November, 2003. Mr. Annan's Secretariat collected fees of some \$1.4 billion over the course of the program to audit, monitor and administer the program, keep the records, and serve as the main interlocutor with Saddam (plus another \$500 million or so for weapons inspections). If anyone was precisely situated to call attention to the growing problems under Oil-for-Food of graft, smuggling, front companies, waste, abuse of public trust and disregard for the interest of the Iraqi people the program was supposed to serve--it was Mr. Annan.

The sums of money involved should have alerted the U.N. from the start that extraordinary vigilance was needed. In examining aid programs, we are accustomed to thinking in terms of millions of dollars, or hundreds of millions, perhaps. Oil-for-Food was designed to work on a scale of billions. Tens of billions. More than \$100 billion (\$101 billion if we use Secretary-General Kofi Annan's figures, though the numbers throughout the program have never been terribly consistent— and I note that the figures provided at the recent Senate hearing by Ambassador Negroponte were at variance with the UN's figures, and that the UN's figures have often been at variance with each other). In this context, a billion or so in bribes that may have gone to crucial political figures, or in payoffs to influence business lobbies, was treated as pocket change, or a rounding error—implying a degree of what we might most generously describe as carelessness unsuitable for an operation charged with containing the activities of an aggressive tyrant under U.N. sanctions.

It must also be kept in mind that once Saddam had done a tainted deal, delivered a bribe, received a kickback, given a gift of those now-infamous oil vouchers; he had the goods on the other party to the deal. Along with the graft came ample opportunity for blackmail, a danger to which the U.N. was also, apparently, indifferent. Very likely, Saddam's partners in graft had more to lose than he did—especially as the program proceeded, and Saddam's regime, having tested the U.N. envelope again and again, discovered it could game the system almost any way it chose. I refer you, for example, to the establishment in 1999 of the Dubai-based trading group, El Wasel & Babel, one of the UN-approved suppliers to Oil-for-Food, designated last Thursday by Treasury as a front company—engaged in procuring arms--for Saddam's own regime.

But amid all this, two features stand out, and it is to these that I would like to call your attention. The hallmarks of Oil-for-Food were:

- 1) Privilege
- 2) Secrecy

These are features usually associated not with open, honest systems, but with secret societies, closed systems, dictatorships. In combination, they tend to incubate corruption. And they did not originate with Oil-for-Food; they are also inherent to the current arrangement and practices of the UN itself.

Privilege was first and foremost what Oil-for-Food accorded to the tyrant Saddam himself. The U.N. allowed Saddam to pick his oil buyers and relief suppliers. The U.N. let Saddam draw up the shopping lists. The U.N. deferred to him as he assembled rosters of contractors that included, among the first 50 oil buyers, a full dozen based in Switzerland. The UN deferred as he added to the list a multitude of what clearly had to be middlemen in places such as Panama, Liechtenstein, and Cyprus, as well as oil-buyers from such oil-rich countries as Saudi Arabia, Nigeria and especially Russia. The surcharge-kickback scam, which made these choices all the more questionable, was by the year 2000 well known among those close to the program. The UN's response was not to shut down Saddam's sales, but to haggle with him. Indeed, it was Saddam who bargained by cutting off oil sales, leaving the UN desperate to continue the program—which was also paying the salaries of some 1,000 international UN staff, and another 3,600 in Iraq.

The UN's eagerness was in principle based on desire to provide for the needs of the Iraqi people. But under UN terms of Oil-for-Food, Iraq's 26 million citizens did not enjoy the kind of privileges the UN granted to the tyrant, Saddam. The Iraqi people had no say in who bought or sold goods for the program, in what was procured, or how it was distributed. They had no say in anything. Oil-for-Food was structured by the U.N. as a deal between Saddam and the U.N. The people of Iraq were treated merely as wards of this privileged partnership.

In fact, what we actually had here was the biggest venture in central planning launched in at least a generation or two. As far as I know, there was at no point any attempt by the U.N. to bargain for a greater say for the Iraqi people. Instead, it was considered an achievement—one boasted about at the end of the program by Mr. Annan and Mr. Sevan—that 60% of the population came to depend on the rationing cards of a totalitarian state. The U.N., in affirming and monitoring this arrangement made no visible attempt to push for greater freedom or latitude for the Iraqi people; the sole concern was to try to somewhat channel the prerogatives accorded to Saddam's regime.

For itself, the UN dipped a cup into Saddam's oil flows, apparently indifferent to the glaringly obvious conflict of interest that the Secretariat was getting paid by Saddam—on commission, no less—to monitor Saddam. This was Arthur Andersen monitoring Enron—with the difference to date that those who ran Arthur Andersen and Enron have been in one way or another held accountable.

Layered on top on the privilege, and dramatically compounding the opportunities for graft and theft, was U.N. secrecy. The UN's prime concern was to protect not the basic rights of Iraqis, but the privacy of the two main privileged parties under Oil-for-Food: Saddam (and his business partners) and the UN itself. The public was denied access to vital information about the \$100 billion-and-more worth of business (not to mention the dispensing by the highly opaque United Nations Compensation Commission, in Geneva, of another \$18.2 billion to largely confidential lists of claimants for damage done by Saddam in Kuwait). The UN treated as confidential such vital details as the identities of Oil-for-Food contractors, the price, quantity and quality of goods involved in the relief

deals, and the identities of the oil buyers and precise quantities they received. The bank statements, the interest paid, the transactions, all were secret.

In operating this way, the UN deprived itself of feedback, not only from the media, but from commercial competitors of Saddam's preferred clientele--from anyone, in fact, who might have had the expertise or interest to spot the strange pricing arrangements and peculiar contractors that came to pervade the program. Instead, we were all asked to trust the U.N. Those who persisted in asking questions were left to ponder such stuff as (and here I quote from a piece I wrote about Oil-for-Food for the New York Times, April 18, 2003):

The quantities of goods involved in shipments are confidential, and almost all descriptions on the contract lists made public by the United Nations are so generic as to be meaningless. For example, a deal with Russia approved last Nov. 19 was described on the contract papers with the enigmatic notation: "goods for resumption of project." Who are the Russian suppliers? The United Nations won't say. What were they promised in payment? That's secret.

Most egregious was that the Iraqi people, in whose name this entire vast program had been arranged, were denied any access to the Oil-for-Food information that was generated by, and routinely available to, the U.N. and Saddam's regime. To this day, the Iraqi people—not to mention the rest of us—have been denied access to anything even approaching the full official roster of contractors, payments, specific goods and terms of the deals. Surely a public accounting might help to shape a more accurately informed opinion, both in Iraq, and elsewhere, of just how competently the U.N. did--or did not--serve the interests of Oil-for-Food's intended beneficiaries and the world community.

There is no reasonable justification for such U.N. secrecy. It serves the interests not of world peace, or humanitarian relief, but of those UN member states, employees, and global officials, businessmen and others, with secrets to hide. In defending to me these policies of privilege and secrecy, one U.N. official after another has invoked the "sensitivities" of member states, or simply U.N. custom.

In this context, I would like to point to one illustration that may seem trivial, but is not: The case of Kofi Annan's son, Kojo Annan, working from February to early December, 1998, as a consultant, via Sutton Investments, for Cotecna Inspections, SA, during the period in which the UN would have been reviewing Cotecna's bid for the pivotal job of the U.N. inspections contract on Oil-for-Food. Kojo Annan's consultancy ended earlier in the same month that Cotecna, on Dec. 31, 1998, was awarded the U.N. contract. It was only after questions by the British press, in 1999, that the U.N. provided any information whatsoever on this matter, and—as is U.N. custom—apart from a denial of any wrongdoing, a few less than illuminating details, and a timetable finally provided to me in response to persistent questions this past March, the U.N. has released nothing more.

There is no reasonable basis for the public to make any informed judgment about how the UN arrived at its decision on the Cotecna contract. We are asked to rely on the integrity

of the same UN whose Office of Internal Oversight Services was evidently unable to spot or unable to stop the billions in graft under Oil-for-Food. We are asked to trust the same mechanisms of privilege and secrecy that produced fostered and protected Saddam's festival of corruption. This is a dreadful precedent, and at the very least the U.N. should be required to present to the public a full accounting in cases involving such potential conflicts of interest.

Instead, we are asked to defer to the U.N. practice of privilege and insistence on secrecy.

This is, to say the least, an unhealthy situation. It is further compounded by the desperate problem of lack of accountability at the UN, where responsibility gets bounced back and forth between the Security Council and the Secretariat. The buck stops no where. And though the UN holds votes on many matters—and did so repeatedly on Oil-for-Food—the U.N. is not a democratic institution. Many of its seats are occupied by despots whose interests are often at odds with those of the people they purport to represent, and whose activities under the U.N. roof are protected by those same features of privilege and secrecy.

It was under the banner of the “sovereignty” of Saddam's regime that the UN at times justified letting Saddam profoundly pervert the Oil-for-Food Program into what came to resemble more a BCCI than a relief effort. No one can pretend that such deference was a contribution to anything except perhaps Saddam, the UN Secretariat that received his commissions, and perhaps some of the officials worldwide who allegedly took bribes, and who are now likely to avail themselves of U.N. secrecy to lobby against anyone looking too hard or disclosing too much about what really happened.

Which brings me to the single most important reform that needs to come out of all this: An end to UN secrecy. The UN is an institution entrusted with fostering a peaceful, freer world. That mission has no chance as long as closet deals can be done with tyrants, and the records shrouded from public view. Had the UN been required to disclose the inner workings of Oil-for-Food from the start, there might have been no need for this hearing.

There are only two basic levers for this kind of change: shame and money. On the evidence, shame won't get you all that far. But this Congress appropriates the lion's share of U.N. funding. That is genuine leverage. If you want to stop the next Oil-for-Food, the deal you have to offer is U.N.-funding-for-Transparency. At the very least, what this scandal should suggest to American tax-payers is that before sending any more funds to the U.N.—home of privilege and secrecy—we need a new U.N. policy, of opening the books.

Mr. SHAYS. I thank you very much.

Dr. Gardiner.

Dr. GARDINER. Mr. Chairman, distinguished members, I'm honored to testify before the committee today.

I would like to outline a series of measures that should be implemented to ensure that the Oil-for-Food fraud is properly investigated and that those responsible for criminal activity in relation to the program be brought to justice.

The Oil-for-Food program was a result of a staggering management failure on the part of the United Nations, and has raised troubling questions about the credibility and competence of the world organization. The Oil-for-Food scandal reinforces the need for sweeping reform of the United Nations bureaucracy. Congressional hearings, combined with an extensive probe launched by the Iraqi Governing Council in Baghdad, have probed U.N. Secretary General Kofi Annan to call for an independent commission of inquiry appointed personally by Annan himself.

While this is a step in the right direction, we need guarantees that this inquiry will be fully independent and impartial, and that it will possess the power to force the cooperation of U.N. member states. As it currently stands, it bears all the hallmarks of an elaborate paper tiger with no real teeth. What is required is a Security Council appointed investigation mandated by a U.N. resolution. I welcomed Mr. Annan's message to the subcommittee this morning that he supports such as U.N. resolution.

In addition, the Bush administration should launch its own investigation into the Oil-for-Food program, and link it to a sustained U.S.-led campaign to reform the United Nations. The Security Council should appoint an international team of criminal investigators to join the inquiry. Investigators should be drawn from the FBI, Interpol, Scotland Yard and other leading criminal investigative agencies. They should work alongside a specialist team of auditors, drawn from a leading accounting firm without ties to the United Nations.

Senior U.N. bureaucrats with responsibility for running the Oil-for-Food program should be investigated and held accountable for their actions. All U.N. officials found to be involved in criminal activity by special investigators should be suspended from employment, stripped of diplomatic immunity, be subject to extradition and if convicted, have their employment terminated without pension rights. Individuals alleged by the investigation to have participated in criminal activity in relation to Oil-for-Food should be extradited to face trial in Iraq. As the Iraqi people were the victims of the ruthless exploitation of the Oil-for-Food program, it is appropriate that the Iraqi legal system try and sentence those responsible.

The U.N.'s inability to successfully manage the Oil-for-Food program represents at the very least a spectacular failure of leadership on the part of Secretary General Kofi Annan. Mr. Annan must bear ultimate responsibility for the program's massive failings. The United States should call for Annan to step down from his post if he is found to have deliberately turned a blind eye to corruption and criminal activity.

The congressional and Security Council investigations into Oil-for-Food should act as a catalyst for long overdue reform of the U.N. system. The United States should call for fundamental reform of the United Nations, including an annual external audit and a Security Council imposed code of conduct for all U.N. employees.

Long term U.S. funding of the United Nations should be made dependent upon widespread and satisfactory reform within the U.N. The anything goes approach which is pervasive across the U.N. system is unacceptable and should no longer be tolerated.

The following conclusions can be drawn from the Oil-for-Food scandal. The Oil-for-Food fraud reinforces the point made by President Bush that the U.N. is in danger of becoming an irrelevance on the world stage. The United Nations continues to slowly decline as a credible international force, and will go the same way as the League of Nations unless it is radically reformed and restructured. The U.N.'s reputation has been heavily scarred by its handling of Oil-for-Food and by its failure to support Saddam Hussein's removal from power.

The United Nations as an organization will have to work extremely hard in the coming years to mend its battered image and restore the faith of both the Iraqi and the American peoples, as well as that of the wider international community. The mismanagement of the Oil-for-Food program raises serious doubts about the U.N.'s ability to manage future programs of a similar scale. The United Nations should not be placed in charge of the administration of an international sanctions regime unless substantial safeguards are introduced.

Finally, the United Nations cannot be entrusted with a major management role in Iraq. The United States is right to exclude the U.N. from a key role in administering post-war Iraq. The U.N. is clearly incapable of performing such a function. The hand-over of political and military power to the United Nations after the June 30 deadline would be strategically disastrous for the future of Iraq.

I thank the committee for the opportunity to testify on this vital subject, and I look forward to your comments and questions.

[The prepared statement of Dr. Gardiner follows:]

The United Nations Oil for Food Fraud:
How the U.S. Should Respond

Statement of Dr. Nile Gardiner¹
 Fellow in Anglo-American Security Policy
 The Heritage Foundation²
 April 21, 2004

House Committee on Government Reform:
Subcommittee on National Security, Emerging Threats, and International Relations

There is mounting evidence that the United Nations Oil for Food program, originally conceived as a means of providing humanitarian aid to the Iraqi people, was subverted by Saddam Hussein's regime and manipulated to help prop up the Iraqi dictator. Saddam's dictatorship was able to siphon off an estimated ten billion dollars from the Oil for Food program through oil smuggling and systematic thievery, by demanding illegal payments from companies buying Iraqi oil and through kickbacks from those selling goods to Iraq, all under the noses of UN bureaucrats. The UN staff administering the program are accused of gross incompetence, mismanagement, and possible complicity in allowing the Iraqi regime to perpetrate the biggest scandal in UN history.

The Iraqi Governing Council (IGC) has already appointed its own investigation into the United Nations' handling of Oil for Food, headed by Claude Hanks-Drielsma, a British businessman and political adviser. Hanks-Drielsma has commissioned the private accounting firm KPMG International to sift through mountains of evidence and write a report summarizing its findings. Ambassador L. Paul Bremer, the Administrator of the Coalition Provisional Authority (CPA), has instructed all offices of the occupying authority to cooperate with the probe and preserve all paperwork related to the Oil for Food program.

Congress has also begun to investigate the Oil for Food Scam³, with initial hearings held by the Senate Foreign Relations Committee on April 7. Further hearings are

¹ The author is grateful to Heritage Foundation Research Fellows James Phillips, Paul Rosenzweig and Brett Schaefer for their advice and suggestions.

² The Heritage Foundation is a public policy, research, and educational organization operating under Section 501(C)(3). It is privately supported, and receives no funds from any government at any level, nor does it perform any government or other contract work. Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own, and do not reflect an institutional position for The Heritage Foundation or its board of trustees.

³ For background, see Nile Gardiner, Ph.D., and James Phillips, *The UN Oil for Food Scam: Time For Hearings*, Heritage Foundation WebMemo No. 438, March 1, 2004.
<http://www.heritage.org/Research/InternationalOrganizations/wm438.cfm>

being held by the House International Relations Committee and the House Subcommittee on National Security, Emerging Threats and International Relations.

The hearings, combined with the IGC probe, have prompted UN Secretary General Kofi Annan to call for an 'independent' inquiry, appointed personally by Annan himself. The three-man commission is to be headed by former United States Federal Reserve Chairman Paul Volcker, who will be joined by South African Judge Richard Goldstone, and Swiss lawyer Mark Pieth. While this is a step in the right direction, there is no guarantee that this inquiry will be fully independent or impartial. Nor does it possess the power to press criminal charges or force the cooperation of UN member states. It bears all the hallmarks of an elaborate paper tiger with no real teeth.

What is required is a Security Council-appointed investigation mandated by a UN resolution, with powers of criminal prosecution. In addition, the Bush Administration should launch its own investigation into the Oil for Food program, and link it to a sustained U.S.-led campaign to reform the United Nations.

- An independent investigation into Oil for Food must be appointed by the Security Council, and be completely independent of the UN bureaucracy, and staffed by non-UN personnel. Kofi Annan's hand-picked commission of inquiry, while led by distinguished figures, lacks real power and credibility. The UN Secretary General should not be in a position to select members of a commission investigating allegations against his own organization.
- The United States and Great Britain should take the lead by putting forward a UN resolution calling for a Security Council-appointed investigation. France and Russia may initially try to block such a resolution, as politicians and businessmen from both nations are heavily implicated in the Oil for Food scandal. The U.S. is though likely to gain majority support in the Security Council, and Paris and Moscow will find it politically difficult to exercise their veto power.
- A leading international accounting firm with no previous ties to the UN should be hired to help conduct the investigation, alongside top criminal investigators. Investigators should be drawn from the FBI, Interpol, Scotland Yard and other leading criminal investigative units.
- If the Security Council investigation recommends that criminal charges be brought against UN employees, those identified should be suspended pending resolution of the charges and have their diplomatic immunity waived to permit trial. UN officials and individuals alleged by the investigation to have participated in criminal activity in relation to Oil for Food should then be extradited to face trial in Iraq. As the Iraqi people were the victims of the ruthless exploitation of the Oil for Food program, it is appropriate that the Iraqi legal system try and sentence those responsible. If convicted they should also have their UN employment terminated.

- The Bush Administration, backed by Congress, should launch its own separate investigation into the United Nations' handling of the Oil for Food program. The United States should call for fundamental reform of the UN system, an annual external audit of the world body, and a Security Council-imposed code of conduct for all UN employees. Long-term U.S. funding of the United Nations should be made dependent upon widespread and satisfactory reform within the UN.

History of the Oil for Food Program

The Oil for Food program was established by the United Nations Security Council through Security Council Resolution 986 in 1995 "as a temporary measure to provide for the humanitarian needs of the Iraqi people" while economic sanctions remained in place. Of Iraq's population of 24 million, 60 percent were dependent on food shipments administered through Oil for Food.

Oil for Food was the United Nations' biggest program anywhere in the world. As Claudia Rosett pointed out in *The Wall Street Journal*, the UN oversaw "a flow of funds averaging at least \$15 billion a year, more than five times the UN's core annual budget."⁴ Oil for Food was administered by 10 UN agencies employing over 1,000 staff internationally and in New York, as well as 3,000 Iraqi nationals. The UN collected a 2.2 percent commission on every barrel of oil sold, generating more than \$1 billion in revenue.

Until 2001, all Iraqi oil revenues were held in an escrow account run solely by Banque Nationale de Paris. The money was later kept by several unnamed international banks, all approved by Saddam's regime. The program was shrouded in a veil of secrecy, with little transparency or public accountability. There was no system of external auditing or publishing of accounts. The identity of the banks holding the Iraqi funds was kept secret. Oil for Food became a cash cow for the UN and a lucrative source of contracts for Russian and French companies. *The Times* of London has calculated that over the period 1996 to 2003, Russian companies received \$7.3 billion of business through Oil for Food; French firms earned \$3.7 billion.⁵

Oil for Corruption

In the twelve months since the downfall of the Iraqi dictatorship, a clearer picture has emerged of how Saddam Hussein abused the United Nations Oil for Food program. The Iraqi Governing Council has begun to release critical information detailing how, in the words of *The New York Times*, "Saddam Hussein's government systematically extracted billions of dollars in kickbacks from companies doing business with Iraq, funneling most of the illicit funds through a network of foreign bank accounts in violation of United

⁴ Claudia Rosett, 'Oil, Food and a Whole Lot of Questions', *The New York Times*, April 18, 2003. http://www.defenddemocracy.org/in_the_media/in_the_media_show.htm?doc_id=218141

⁵ James Bone, 'Saddam's Billions From Oil for Food Corruption', *The Times of London*, April 23, 2003.

Nations sanctions.” In effect the program was little more than “an open bazaar of payoffs, favoritism and kickbacks.”⁶

Between 1997 and 2002, the Oil for Food program generated over \$67 billion in revenues for the Iraqi regime. With little oversight from the UN, the Iraqi dictatorship was able both to circumvent and to exploit the Oil for Food program. It is suspected of selling its oil at bargain basement prices that benefited numerous middlemen while overpaying for various imports, which allowed it to reward suppliers. The Iraqis then demanded kickbacks from both groups. The program was officially brought to an end in November 2003.

The General Accounting Office (GAO) estimates that the Saddam Hussein regime generated \$10.1 billion in illegal revenues by exploiting the Oil for Food program. This figure includes \$5.7 billion from oil smuggling, and \$4.4 billion in “illicit surcharges on oil sales and after-sales charges on suppliers.”⁷ The scale of the fraud was far more extensive than the GAO had previously estimated.

According to the GAO, the oil was smuggled by pipeline into Syria, by ship through the Persian Gulf, and by truck across the borders of Turkey and Jordan. Oil purchasers were charged a surcharge of up to 50 cents per oil barrel, with an added commission of 5 to 10 per cent of the commodity contract. A Department of Defense study cited by the GAO evaluated 759 contracts administered through the Oil for Food program, and found that nearly half had been overpriced, by an average of 21 percent.⁸

An International Network of Beneficiaries

A mosaic of international corruption is emerging in the patchwork of politicians and businesses across the world that benefited from the Oil-for-Food program and helped keep Saddam Hussein in power. The Iraqi Oil Ministry recently released a partially complete list of 270 names of individuals, political entities and companies from across the world who received oil vouchers from Saddam Hussein’s regime, allegedly at below-market prices.⁹

The list of beneficiaries includes former French Interior Minister Charles Pasqua, the “director of the Russian President’s office”, the Russian Communist Party, the Ukraine Communist Party, the Palestine Liberation Organization (PLO), the Popular

⁶ See Susan Sachs, ‘Hussein’s Regime Skimmed Billions From Aid Program’, *The New York Times*, February 29, 2004. <http://www.nytimes.com/2004/02/29/international/middleeast/29FOOD.html>

⁷ United States General Accounting Office, *Recovering Iraq’s Assets: Preliminary Observations on U.S. Efforts and Challenges*, Testimony before the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives, by Joseph A. Christoff and Davi M. D’Agostino, March 18, 2004. <http://www.gao.gov/highlights/d04579high.pdf>

⁸ Ibid.

Front for the Liberation of Palestine, the son of Lebanese President Emile Lahud, the son of Syrian Defense Minister Mustafa Tlass, and George Galloway, a British Member of Parliament. Ominously, the list also implicates UN Assistant Secretary-General Benon V. Sevan, executive director of the Oil for Food program, who has stringently denied any wrongdoing. Sevan, a longtime UN bureaucrat with close ties to Kofi Annan, has taken an extended vacation, pending retirement later this month.

Kofi Annan's son Kojo also may be implicated in the mushrooming scandal. Kojo Annan had ties to Cotecna Inspection SA, a Swiss-based company that received a contract for inspecting goods shipped to Iraq under the Oil for Food program. The younger Annan worked for Cotecna in the mid 1990's and became a consultant to the company until shortly before it won the Oil for Food contract.¹⁰ Cotecna, which reportedly had been implicated in earlier bribery scandals, did not disclose this potential conflict of interest, and nor did the United Nations.

Russia, France, and Saddam

No less than 46 Russian and 11 French names appear on the Iraqi Oil Ministry list.¹¹ The Russian State is alleged to have received an astonishing \$1.36 billion in oil vouchers from Saddam Hussein.

The close ties between French and Russian politicians and the Iraqi regime may well have been an important factor in influencing their governments' decision to oppose the removal of Saddam Hussein from power. They also highlight the close working relationship between Moscow, Paris and Baghdad, and the huge financial interests which both France and Russia maintained in pre-liberation Iraq.

Prior to the regime change in Baghdad in April 2003, French and Russian oil companies possessed oil contracts with the Saddam Hussein regime which covered roughly 40 percent of the country's oil wealth. French oil giant Total Fina Elf had won contracts to develop southern Iraq's Majnoon and Nahr Umar oil fields, estimated to contain 26 billion barrels of oil, or 25 percent of Iraq's oil reserves. Russian company

⁹ The names were published in January in the Arabic Iraqi newspaper *Al Mada* and subsequently reported on by Therese Raphael in her article 'Saddam's Global Payroll', published in *The Wall Street Journal*, February 9, 2004.

¹⁰ Claudia Rosett, 'Turtle Bay's Carnival of Corruption: Digging Deeper Into the Scandalous Oil for Food Program,' *National Review*, March 21, 2004.
<http://www.nationalreview.com/comment/rosett200403212155.asp>

¹¹ For a full list of names by nationality, see Dr. Nimrod Raphaeli, *The Saddam Oil Vouchers Affair*, The Middle East Media Research Institute, February 20, 2004.
<http://memri.org/bin/opener.cgi?Page=archives&ID=IA16404>

Lukoil had won the contract to develop the West Qurna field, also in southern Iraq, containing an estimated 15 billion barrels of oil.¹²

Political and military ties between Moscow and Baghdad were extensive. Documents found in the bombed-out headquarters of the former Iraqi intelligence service (Mukhabarat) in Baghdad reveal the full extent of intelligence co-operation between the Russian and Iraqi governments. According to reports in the London *Sunday Telegraph*, "Russia provided Saddam Hussein's regime with wide-ranging assistance in the months leading up to the war, including intelligence on private conversations between Tony Blair and other Western leaders. Moscow also provided Saddam with lists of assassins available for 'hits' in the West and details of arms deals to neighbouring countries."¹³

The Russians are also believed to have illegally sold arms to Iraq right up until the outbreak of war with the United States in March 2003. The Bush Administration accused Russian arms dealers of selling thousands of night vision goggles, as well as anti-tank guided missiles and electronic jamming equipment to the Iraqis in open violation of UN sanctions.¹⁴ During the course of his dictatorship, Russia reportedly provided Saddam with \$14 billion worth of arms shipments.¹⁵

Evidence has also come to light of intimate political co-operation between Paris and Baghdad in the period leading up to the U.S.-led war against Saddam Hussein. Documents found in the wreckage of the Iraqi foreign ministry in the aftermath of the liberation of Iraq, and reported on by the London *Sunday Times*, reveal that "Paris shared with Baghdad the contents of private transatlantic meetings and diplomatic traffic from Washington." Officials in the French Foreign Office reportedly shared information with their Iraqi counterparts on a sensitive meeting between former French foreign minister Hubert Vedrine and U.S. Secretary of State Colin Powell following the terrorist attacks on September 11. Details of talks between French President Jacques Chirac and President George W. Bush were also reportedly passed on to the Iraqi foreign ministry by the French ambassador in Baghdad.¹⁶

¹² See Carrie Satterlee, *Facts on Who Benefits From Keeping Saddam Hussein in Power*, Heritage Foundation WebMemo No. 217, February 28, 2003.
<http://www.heritage.org/Research/MiddleEast/wm217.cfm>

¹³ David Harrison, 'Revealed: Russia Spied on Blair for Saddam', *The London Sunday Telegraph*, April 13, 2003. <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/04/13/wrus13.xml>

¹⁴ Peter Slevin, '3 Russian Firms' Deals Anger U.S.', *The Washington Post*, March 23, 2003.
<http://www.washingtonpost.com/ac2/wp-dyn/A13057-2003Mar23>

¹⁵ Harrison, 'Revealed: Russia Spied on Blair for Saddam'

¹⁶ Matthew Campbell, 'Dossier Reveals France Briefed Iraq on U.S. Plans', *The London Sunday Times*, April 27, 2003.

A Security Council Investigation

As the most powerful member of the UN Security Council, the United States, together with its closest ally, the United Kingdom, should call for a wide-ranging and in-depth independent investigation into the way in which the UN handled the Oil for Food program.

The investigation should be appointed by the Security Council, but should be completely independent of the United Nations and made up of non-UN employees. Great care should be exercised by the United States and Great Britain to prevent such an investigation from being unduly influenced by other Security Council members who may have a vested interest in protecting their own officials.

The Security Council should appoint an international team of special criminal investigators to head the inquiry. They should work alongside a specialist team of auditors, drawn from a leading accounting firm without ties to the United Nations.

The team of special investigators should be drawn from the Federal Bureau of Investigation (FBI), the United States Department of Justice, and the U.S. Securities and Exchange Commission (SEC), as well as international bodies such as Interpol. Nations who are heavily implicated in the Oil for Food scandal should be excluded from contributing investigators.

Prosecution of UN Officials in Iraqi Courts

After the handover of power takes place in Iraq on June 30, the Iraqi courts should be the appropriate venue for trying and sentencing those individuals found guilty of criminal wrongdoing by a Security Council appointed investigation.

The United Nations should suspend (and if convicted, terminate) the employment of its officials who are alleged to have received kickbacks from the Saddam Hussein regime. Those charged should be stripped of diplomatic immunity and be subject to extradition to Iraq, should the new Iraqi government request it. The Coalition Provisional Authority should work closely with the Iraqi Governing Council to prepare for possible trials. Anyone convicted should be stripped of all pension rights.

The United States should press other governments to extradite their citizens who are guilty of criminal activity related to the Oil for Food program, to face trial in Iraq.

Reform the United Nations

The Oil for Food scandal underlines the need for fundamental reform of the United Nations.¹⁷ The investigation into the Oil for Food fraud should prompt major reform in terms of how the UN is managed, and how the United States funds the UN. A thorough

¹⁷ For information on the issue of UN reform, see Nile Gardiner and Baker Spring, *Reform the United Nations*, Heritage Foundation Backgrounder No. 1700, October 27, 2003.
<http://www.heritage.org/Research/InternationalOrganizations/BG-1700.cfm>

external audit of the United Nations is needed. The UN must provide accountability, transparency and value for money.

No nation in the world contributes more to the work of the United Nations than the United States. Since its creation in 1945, the United States has been the world's biggest contributor to the United Nations. The U.S. currently contributes 22 percent of the UN's regular budget. In contrast, France contributes 6.4 percent, Britain 5.54 percent, China 1.53 percent, and Russia 1.2 percent. Total U.S. contributions to the UN system in 2001 totaled \$3.5 billion, including \$612 million in assessed contributions to the UN regular budget, \$712 million towards UN peacekeeping, and \$2.2 billion in voluntary contributions.¹⁸

The United States should reconsider its level of funding for the United Nations, and link it directly to the pace of UN reform. The Bush Administration should call upon other leading member states, such as France, Russia and China, to make a greater contribution to the UN budget, with a larger share of the financial burden.

Key Recommendations

- **A Security Council Resolution**
In order to be effective, an independent investigation should be appointed by the Security Council. The U.S. and UK should put forward a joint resolution calling for an exhaustive investigation into the Oil for Food scandal. France and Russia should be shamed into supporting such a resolution. Washington and London should closely coordinate their strategy at the UN.
- **No *Quid Pro Quo***
The Bush Administration will be under heavy pressure from some Security Council Members to back away from calling for a more in-depth investigation in return for a new UN resolution supporting U.S.-British plans for the handover of power in Iraq. The United States must stand firm on the Oil for Food issue, and separate it from the debates over an Iraq resolution.
- **Opening of UN Accounts**
UN Oil for Food accounts should be opened to full public scrutiny by private sector auditors in order to uncover possible financial and other irregularities. Measures should be taken against individuals and businesses that illegally profited from the Oil for Food program.
- **Investigation of UN Officials**
Senior UN bureaucrats with responsibility for running the Oil for Food program should be investigated and held accountable for their actions. In particular, the

¹⁸Figures cited by Vita Bite in *UN System Funding: Congressional Issues*, Congressional Research Service, September 10, 2003. Voluntary contributions go towards specialist UN programs such as the United Nations Children's Fund (UNICEF) and the United Nations Development Program (UNDP).

role played by Benon V. Sevan, executive director of the Office of Iraq Programs, should be carefully scrutinized. All UN officials found to be involved in criminal activity by special investigators should be suspended from employment from the world body, stripped of diplomatic immunity, subject to extradition and, if convicted, have their employment terminated without pension rights.

- **Extradition to Iraq**

The United States should press the Security Council to extradite UN officials found guilty of criminal wrongdoing to face trial in Iraq. The U.S. should also encourage individual governments to extradite to Iraq those of their citizens charged with crimes relating to the Oil for Food program.

- **The Role of Kofi Annan**

A Security Council-appointed investigation into Oil for Food should examine the role played by the UN Secretary General in overseeing the program, and his failure to halt its widespread abuse. Mr. Annan must bear ultimate responsibility for the program's massive failings. The United States should call for Annan to step down from his post if he is found to have deliberately turned a blind eye to corruption and criminal activity.

- **UN Reform**

The Congressional investigation into Oil for Food should act as a catalyst for long-overdue reform of the UN system. Future U.S. funding of the United Nations must be dependent upon substantial, not cosmetic, reform of the organization. Failure to prosecute UN officials found guilty of wrongdoing should also result in a potential reduction in U.S. funding.

- **Future Sanctions Regimes**

The mismanagement of the Oil for Food program raises serious doubts about the UN's ability to manage future programs of a similar scale. The United Nations should never again be placed in charge of the administration of an international sanctions regime.

- **A Code of Conduct for UN Officials**

The Oil for Food scandal reinforces the need for a Security Council imposed code of conduct for UN employees. The 'anything goes' approach which is pervasive across the UN system is unacceptable and should no longer be tolerated.

- **Limit the Role of the UN in Iraq**

The huge scandal surrounding the UN's handling of the Iraq Oil for Food program demonstrates clearly that the world body cannot be entrusted with a major management role in Iraq. The United States was right to exclude the UN from a key role in administering post-war Iraq – the UN was clearly incapable of performing such a function. A handover of political and military power to the United Nations would be a strategic disaster.

Conclusion

The abuse of the Oil-for-Food program was the result of a staggering management failure on the part of the United Nations and has raised troubling questions about the credibility and competence of the world organization. The Oil for Food debacle reinforces the need for sweeping reform of the United Nations bureaucracy and the need for an annual external audit of its accounts.

Overall responsibility for the program's failure should lie with UN Secretary General Kofi Annan, who allegedly turned a blind eye to one of the biggest financial scandals of modern times. The UN's inability to successfully manage the Oil for Food program represents a spectacular failure of leadership on the part of Mr. Annan.

The links between Saddam Hussein's regime and leading European companies and politicians were extensive. A huge part of Saddam's strategy for staying in power involved the bribing of European political and business entities. The Pentagon was correct in its decision to bar companies from nations who had opposed regime change in Iraq, such as France and Russia, from bidding for U.S.-funded contracts for the rebuilding of Iraq. Russian and French companies in particular benefited from the exploitation of the Oil for Food program.

The Oil for Food fiasco reinforces the point made by President Bush that the UN is in danger of becoming an irrelevance on the world stage. The United Nations continues to slowly decline as a credible international force, and will go the same way as the League of Nations unless it is radically reformed and restructured.

The UN's credibility as a global institution has been heavily scarred by both its handling of the Oil for Food program and by its failure to support the removal of Saddam Hussein from power. The United Nations as an organization will have to work extremely hard in the coming years to mend its battered image, and restore the faith of both the Iraqi and American people, as well as that of the wider 'international community'.

Mr. SHAYS. Thank you very much, Dr. Gardiner.

Dr. Raphaeli.

Dr. RAPHAELI. Mr. Chairman, thank you for inviting me to testify before your distinguished subcommittee.

On January 25, 2004, the Iraqi daily Al-Mada published a list of 270 individuals and entities who were beneficiaries of Saddam Hussein's oil vouchers. The Middle East Media Research Institute [MEMRI], translated the list from the Arabic and made it available to the non-Arabic readers on January 29th.

I should answer a question asked before lunch, Mr. Chairman, the owner of the newspaper is Mr. Fakhri Kareem. He has a long history in Iraqi politics, a former communist, age 64, we can talk about it later on.

In my presentation will address five questions: what are these oil vouchers and how were they used; who were the voucher recipients; is the list authentic; what other means did Saddam Hussein use to subvert the Oil-for-Food program; and finally, could the administrators of the program have been unaware of the regime's subversion by the program?

Now for the first question. The nature and use of the oil vouchers. In May 2002, or 2 years before the oil vouchers achieved their present notoriety, and I'm sorry, I'll have to take credit for that, MEMRI issued a special dispatch entitled, "Iraq Buys and Smuggles its Way Out of U.N. Sanctions." That dispatch cataloged techniques that were being used to subvert the program, including the use of vouchers to buy friends.

In brief, Saddam Hussein granted oil vouchers to various beneficiaries who could then sell them to oil dealers or agents operating from the Rashid Hotel in Baghdad. The agents would then sell the vouchers to oil companies which, in turn, would submit them to the State Oil Marketing Co., [SOMO], to collect the oil. Both the recipient of the voucher and the agent collected quick and handsome profits. A 1 million barrel voucher surrendered against 25 cents per barrel earns \$250,000.

The second question is, who were the voucher recipients. The beneficiaries were from 52 countries and included 19 political parties and numerous politicians and journalists. Russia led the way among countries, with 46 recipients for a total of about 2.5 billion barrels. In an annex to my background paper, there will be a list of the recipients of the vouchers and comments by them explaining the reason they received the vouchers.

The third issue is the authenticity of the list. There is a propensity among totalitarian regimes to keep accurate records of their misdeeds. The first half of the last century provides several examples. Saddam's regime provides another.

What gives credence to the authenticity of the list are the statements by many of those implicated that they had received the vouchers for goods which they provided under the Oil-for-Food program. These statements are, at best, disingenuous. Under the program, contracts had to be approved by the U.N. and upon the delivery of the goods, the U.N. would reimburse suppliers from an escrow account held at a French bank. Hence, if vouchers were granted, they were given either as bribes or as payment for illicit goods which could not be purchased under the program itself.

Again if I may answer another question unanswered before, the reason the program was managed in Euros and not in dollars is that at the insistence of Saddam Hussein, as a form of punishing the United States, he said, we're going to deal with Euros rather than dollars. Upon his insistence, the account was opened in Banque Nationale de Paris. So it was Saddam's order on both instances, French bank and the Euro instead of dollar.

The fourth question, the subversion of the program by the Saddam regime. Despite the sanctions, the regime of Saddam Hussein perfected a number of methods to sell oil for personal gain. A, Iraq exported to Syria approximately 200,000 to 250,000 barrels a day through the Kirkuk Baniyas pipeline. Syria never denied it.

B, trucks carried diesel oil from Kirkuk to southern Turkey. C, small Iraqi ships carried crude oil across the Persian Gulf mainly to Qatar for trans-shipment elsewhere. D, grains and other food supplies imported under the program were re-exported. E, legal shipments of oil were topped up by varying quantities with the excess sold for the benefit of the regime. And finally, F, invoices were inflated, a practice commonly referred to as pricing transfer, or as was said here, kickbacks.

And the fifth and final question, the knowledge, if not the complicity, of the U.N. managers of the program. On February 18, a month after the list was first published by the Al-Mada, Mr. Shashi Tharoor, United Nations Under Secretary General for Communications and Public Information, wrote a letter to the editor of the Wall Street Journal professing ignorance of wrongdoing.

The letter makes two curious assertions. First, it protests, "No one at the United Nations has yet seen the original list." Note please that Al-Mada had published the list 1 month earlier. Second, the letter offers an elaborate explanation of the procedure for administering the program. But Mr. Tharoor then introduces a caveat: "The United Nations had no way of knowing what other transactions might be going on directly between the Iraqi government and the buyers and sellers."

Now comes the shocker. Mr. Tharoor says, "The program itself was managed strictly within the mandate given to it by the Security Council and was subject to nearly 100 different audits, external and internal." I repeat, Mr. Tharoor says 100 different audits, between 1998 and 2003, and as the Secretary has said, "this produced no evidence of any wrongdoing by the U.N. official."

It is odd indeed that all these audits, paid from the more than \$1 billion collected by the U.N. to administer the program could not find one of the several infringements of the program that had been noted 2 years earlier by MEMRI, which has no access to official records.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Raphaeli follows:]

**A STATEMENT ON 'OIL FOR FOOD PROGRAM' BEFORE THE HOUSE
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND
INTERNATIONAL AFFAIRS (APRIL 21, 2004)**

By

**Nimrod Raphaeli
Senior Analyst
Middle East Media Research Institute (MEMRI)
Washington, D.C.**

Mr. Chairman

On January 25, 2004 the Iraqi daily *Al-Mada* published a list of 270 individuals and entities who were beneficiaries of Saddam Hussein's oil vouchers. The Middle East Media Research Institute or MEMRI, translated the list from the Arabic and made it available to the non-Arabic readers on January 29.

Mr. Chairman

In my presentation I will address five questions that we have frequently been asked:

First: what are these oil vouchers and how were they used?

Second, who were the beneficiaries?

Third, is the list authentic?

Fourth, what other means did Saddam Hussein use to subvert the Oil for Food Program?

Fifth, could the administrators of the Oil for Food Program have been unaware of the regime's subversion of the Program?

I shall now answer the questions briefly and in that order.

First: The Nature and Use of the Oil Vouchers

In May, 2002, or two years before the oil vouchers achieved their present notoriety, MEMRI issued a special dispatch entitled "Iraq Buys and Smuggles its Way out of UN Sanctions." That dispatch catalogued techniques that were being used to subvert the Oil for Food Program, including the use of vouchers to buy friends.

In brief, Saddam Hussein granted oil vouchers to various beneficiaries -- individuals as well as public and governmental entities -- who could then sell them to oil dealers or agents operating from the Rashid Hotel in Baghdad. The agents would then sell the vouchers to oil companies which, in turn, would submit them to the State Oil Marketing Company or SOMO, to collect the oil. Both the beneficiary and the agent collected quick and handsome profits. A one million barrel voucher surrendered against \$0.25 per barrel earns \$250,000.

Second: The Beneficiaries

The beneficiaries were from 52 countries and included 19 political parties, and numerous politicians and journalists. Russia led the way among countries, with 46 recipients for a total of about 2.5 billion barrels. Significant individual recipients include the president of Indonesia, the prime minister of Libya, the former prime minister of Yemen, a former French minister of interior and Mr. Patrick Maugein who, according to French sources, is a financial supporter of French President Chirac.

Finally, the beneficiaries included the sons of the former Egyptian President Gamal Abdul Nasser, the President of Lebanon Emil Lahoud, and the perennial Syrian minister of defense Mustapha Tlass.

Third: The Authenticity of the List

There is a propensity among totalitarian regimes to keep accurate records of their misdeeds. The first half of the last century provides several examples. Saddam's regime provides another.

What gives credence to the authenticity of the list is the statements by many of those implicated that they had received the vouchers for goods which they provided under the oil for food program. These statements are, at best, disingenuous. Under the Program, contracts had to be approved by the U.N., and upon the delivery of goods, the U.N. would reimburse the suppliers from the escrow account held at the French bank BNP-Paribas. No official contracts were financed by oil vouchers. Hence, if vouchers were granted they were given either as bribes or as payment for illicit goods, which could not be purchased under the Program itself.

Fourth: The Subversion of the Program by the Saddam Regime

Despite the sanctions, the regime of Saddam Hussein perfected a number of methods to sell oil for personal gains.

- a. By Saddam Hussein's son, Uday, own admission, Iraq exported to Syria approximately 200,000-250,000 b/d through the Kirkuk Baniyas pipeline. Syria never denied it.
- b. Trucks carried diesel oil from Kirkuk to southern Turkey. The Kurds who controlled northern Iraq were happy to collect transition fees
- c. Small Iraqi ships carried crude oil across the Persian Gulf mainly to Qatar for transshipment elsewhere. Many were intercepted and quite a few sank causing environmental damage.
- d. Grains and other food supplies imported under the program were re-exported

- e. Legal shipments of oil were topped up by varying quantities with the excess sold for the benefit of the regime
- f. Invoices were inflated—a practice commonly referred to as pricing transfer

Fifth: The Knowledge, if not the Complicity, of the UN Managers of the Program

On February 18, a month after the list was first published by *Al-Mada*, Mr. Shashi Tharoor, United Nations Under-Secretary-General for Communications and Public Information, wrote a letter to the editor of the *Wall Street Journal* professing ignorance of wrong doing. That letter makes two curious assertions. First, it protests, “No one at the United Nations has yet seen the original list.” Note, please, that Al-Mada had published the list one month earlier.

Second, it offers an elaborate explanation of procedure. “The oil buyer had to pay the price approved by the Security Council Sanctions Committee into a U.N. escrow account, and the U.N. had to verify that the goods purchased by Iraq were indeed those allowed under the program.” Mr. Tharoor then introduces the caveat: “But the U.N. had no way of knowing what other transactions might be going on directly between the Iraqi government and the buyers and sellers.” Now comes the shocker: Mr. Tharoor says, “The program itself was managed strictly within the mandate given to it by the Security Council and was subject to nearly 100 different audits, external and internal, [I repeat, Mr. Tharoor says, “100 different audits”] between 1998 and 2003 and, as the secretary-general has said, this produced no evidence of any wrongdoing by the U.N. Official.”

It is odd, indeed, that all these audits, paid for from \$1 billion collected by the UN to administer the program could not find one of the several infringements of the program that had been noted two years earlier by MEMRI – which has no access to official records.

Thank you Mr. Chairman

**BACKGROUND MATERIAL RELATING TO HEARINGS ON OIL FOR FOOD
PROGRAM TO BE HELD ON APRIL 21, 2004 BY THE HOUSE SUBCOMMITTEE ON
NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL**

By

Nimrod Raphaeli
Senior Analyst
Middle East Media Research Institute (MEMRI)
Washington, D.C.

Introduction

This document presents information and comments on the “Oil for Food Program” that appeared in various dispatches published by the Middle East Media Research Institute (MEMRI) in the two years preceding “Operation Iraqi Freedom.” The sources are almost entirely Iraqi and other Arabic newspapers, including the Iraqi daily *Babil* that was published by Saddam Hussein’s son, *Uday*. Despite the strict control over the press in Iraq during the Saddam regime, Uday Saddam Hussein allowed himself to occasionally cross the red lines with impunity. Two examples illustrate this point. One was the publication in *Babil* of the exact amount of oil Iraq was shipping to Syria daily, and another was publicizing the resumption of oil shipment to Turkey by trucks, both transactions in violation of the sanctions regime.

The material presented in this paper will demonstrate that the Iraqi regime’s violations of the “Oil for Food Program” were well documented and should have been evident to all and, in particular, to those who were responsible for administering the program [Annex I]. The publication by the Iraqi daily *Al-Mada* on January 25, 2004 of the list of individuals and entities that received oil vouchers from the regime [annex II] has only colored an already well-outlined picture.

MEMRI’S office in Baghdad forwarded the list of oil vouchers to the office in Washington, where it was translated and from which it was disseminated. As the only non-governmental research institute with an office in Baghdad, MEMRI was able to be the only source to publish the whole list as soon as it was published in Baghdad.

This report is based on the “Oil for Food Program” during the last two years of the Saddam’s regime.

Attachment I: “Iraq Buys and Smuggles its Way out of UN Sanctions,” MRMRI’s Special Dispatch No. 382 of May 22, 2002.

Attachment II: The Saddam Oil Vouchers Affair, MEMRI’s Inquiry and Analysis Series No. 164 of February 20, 2004.

Attachment III: Curriculum Vitae of Nimrod Raphaeli

MEMRI, Washington, D.C.
April 21, 2004

I. The Subversion of the Oil for Food Program by the Iraqi Regime

Based on information pieced together from Arab (including Iraqi) press, MEMRI presented to its readers, at various times, comments and analysis concerning the methods used by the Iraqi regime, aided by, and in connivance, with traders and partners-in-corruption, to subvert the UN sanctions, in general, and the "Oil for Food Program," in particular.

This paper highlights some of these methods. It is by no means complete or comprehensive. As noted in the introduction, all the pieces in this paper are taken from earlier publications by MEMRI. As more Iraqi secret documents are made public, a clearer and more detailed picture will no doubt emerge. It suffices to note, however, that while the "Oil for Food Program" was ongoing, there was considerable detail available indicating subversion of the Program by Iraqi authorities—a problem which should have been addressed and remedied by the U.N. but was not. The investigation of the Program that has been promised by the Secretary General of the United Nations may shed further light on what occurred.

Special Deals for Friends of the Iraqi Regime

There is ample evidence that Iraq used the "Oil for Food Program" to acquire support among writers, artists, singers, and journalists across the Arab world and elsewhere. A "Special Dispatch" in 2002 by MEMRI entitled "Iraq Buys and Smuggles its Way out of UN Sanctions"¹ highlights some of the violations by Iraq, including what would become known two years later as Saddam's Oil Vouchers made public by the Iraqi *Al-Mada* newspaper on January 25, 2004 and subsequently translated and issued with commentaries by MEMRI.²

As was reported in May 2002, one way to secure the support of politicians, intellectuals, artists and journalists was for the government to grant certain among some of them coupons or vouchers allowing them to receive a certain amount of oil, either free or at discounted prices. The recipient of the voucher would then use the services of various local agents, operating at the *Rashid Hotel* in Baghdad, to sell the voucher to a foreign company, allowing both the voucher holder and the local agent to earn a quick commission. The buyer of the voucher would submit it to SOMO (State Oil Marketing Organization) of Iraq, which, in turn, would supply the oil either through one of Iraq's oil terminals or through the Iraqi-Syrian oil pipeline [see below]. The buyer would be responsible for the shipping.

When the list of the 270 recipients of oil vouchers was published many of those who were on the list argued that the vouchers were given to them in compensation for goods and services delivered to Iraq under the "Oil for Food Program." Such protests are disingenuous: suppliers of

goods and services under contracts approved by the U.N. were reimbursed by the U.N. against the escrow account in which oil revenues were deposited. While oil vouchers may, indeed, have been provided by the regime to suppliers of goods and services, such payment will have been for goods and services provided outside the framework of the "Oil for Food Program" and may have covered any range of weapons, weapon equipment or other illicit or luxury goods that, by definition, would not have qualified for financing under the Program.

The Qatar Channel

There were other ways, sometimes quite efficient and definitely rewarding, for the Iraqi government to subvert the sanctions regime. Most of the trading companies in Iraq were owned by members of the ruling *Ba'th Party* or their children, trade unions, political activists, and media personalities, who turned these companies into "a large political bazaar."³ Foreign trading companies, which for one reason or another were not allowed to do business directly with the government of Iraq, operated through Iraqi representatives with political clout. Some traders, particularly those from Qatar, entered into contracts through these agents to buy smuggled Iraqi oil at a discounted price. Once the oil reached Qatar, it was issued a new "*certificate of origin*" and sold into the international markets. In one year, Kuwait seized more than 20 vessels and small tankers of various sizes carrying oil and goods from Iraq in violations of the sanctions.⁴ Given that the U.S. Navy was also active in the Gulf, it most likely has a list of oil-carrying vessels which it intercepted.

One problem is that many of the ships used for oil smuggling were not seaworthy and caused serious environmental damage to the Gulf.⁵ According to the *International Maritime Bureau*, smugglers sailed their ships at night through the *Shatt Al-Arab* waterway between Iraq and Iran. When intercepted, often by U.S. navy ships, they claimed to be heading for Iranian ports. At some point, they turned north and picked up the oil at Iraqi terminals. They sailed back through Iranian waters, sometimes paying a transit fee on the way. Another source claims that the smugglers paid Iran \$50 per metric ton as a tariff for using Iran's territorial waters.⁶

Surcharge on Oil

A major volume of illicit income was derived from the special surcharge of \$0.25-\$0.40 levied by SOMO (the Sate Oil Marketing Organization) on each barrel of oil sold by Iraq. While this surcharge was illegal under the UN sanctions regime, most traders were prepared to pay it to maintain good relations with SOMO because oil from Southern Iraq, light crude with very low sulfur content, is highly desired by California refineries.

To attack the surcharges and ensure that prices were market related, the United States proposed that Iraqi oil should be priced every 15 days – and the United Kingdom proposed every 10 days. The introduction of the *ex post* pricing system was intended to eliminate the illegal reimbursements by buyers to the Iraqi authorities for the difference between the official and the market price of oil which would have been feasible if oil was priced at the point of departure. Iraq argued that it was losing traders who could not earn profit because of the *ex post* pricing mechanism, but these arguments were never considered too serious.⁷ In fact, there was no evidence that the *ex post* pricing of oil had impacted the volume of oil exports.

It is ironic, however, that while the U.S. was trying to eliminate the surcharge on Iraqi oil exports, it had become the largest consumer of Iraqi oil which represented about 9% of its oil imports. *Valero Energy* and *Chevron/Texaco* were the two largest American oil companies which bought Iraqi oil. American companies bought 790,000 b/d of Iraqi oil in 2001, or about half of the Iraqi oil for sale under the "Oil for Food Program." Between July and December of 2001, 70% of Iraqi oil was refined in American refineries. While the U.S. could purchase oil directly from Iraq under the Program, Iraq preferred to sell its oil to the U.S. through intermediaries and petroleum brokers, principally Russian."⁸

"Topping Up" of Oil Shipments

Although U.N. officials were responsible for monitoring the export of Iraqi oil under the "Oil for Food Program" and for keeping records of such exports, it was commonly known that, in connivance with some oil tanker owners, Iraq would add an additional amount of oil to legitimate oil shipments for its own account. There were many instances of "topping up" but there is no record of the amount or frequency. In one instance, the Iraqi government arrested five officials of SOMO for engaging in topping up for their own benefit, or so the Iraqi government said.

Pricing Transfer

Under the "Oil for Food Program," oil revenues were deposited in an escrow account at BNP-Paribas which was administered by the United Nations ostensibly to prevent Iraq from using these revenues to buy weapons, weapon-related equipment, or a whole range of goods and material that were thought likely to strengthen the Iraqi military capability. One should add in parenthesis that the establishment of the escrow account at a French bank was done at Saddam's insistence that oil exports should be transacted in *euro* as a "punishment to the United States." The special account reimbursed the exporters and suppliers for goods exported to Iraq after advance approval by the U.N. However, it was the Iraqi government which negotiated the deals with the exporters or suppliers. At that stage, the two sides (the government and the exporters) connived to add a big margin, a minimum of 10%, to the negotiated price. This additional margin of illicit profit [known in business as *pricing transfer*] was then paid, often in cash, to the Iraqi treasury or to an individual beneficiary, most likely Saddam Hussein himself or a member of his immediate family, designated by the Iraqi government.

Re-Exporting of Goods and Commodities Imported under the Program

A common method of subverting the sanctions regime was to import commodities under the "Oil for Food Program" in excess of national demand. Cereals, mainly wheat and barley, were imported and sold to local merchants who, then, exported them as a domestic commodity. In the process, someone collected a commission on the imports, took a profit on the re-export, and, in the process, paid the cost of the reshipment. There were instances, however, when what was re-exported was not necessarily a surplus commodity but a vital food commodity, such as milk powder meant for Iraqi children. When the Kuwaiti authorities seized a shipment of milk powder from Iraq, the Iraqis were quick to announce that the powder was not of high enough quality for local consumption.

Oil Smuggling through Syria

As part of an effort to break its isolation, Iraq initiated, shortly after the launching of the “Oil for Food Program” in the second half of the 1990s, a trade and diplomatic offensive aimed at gaining the support of the Arab countries. With rapidly expanding imports, thanks both to licit and illicit oil revenues, Iraq was able to offer trade incentives through negotiating bi-lateral free trade agreements. In essence, these agreements represented a one-way flow of goods and products into Iraq since Iraq had little to sell to the other side. In the case of the bi-lateral trade agreement with Syria, it meant shifting transit trade from the Port of *Aqaba* in Jordan to the Syrian Port of *Latakia* on the Mediterranean, opening of the borders (Iraqi officials were instructed to travel abroad via Damascus instead of Amman), renewing the rail connection between Mosul, in the North of Iraq and Aleppo (after an interruption of 20 years) and, most importantly, shipping Iraqi oil through the Kirkuk-Banias pipeline at discounted prices. Neither side was forthcoming about the volume or pricing of the Iraqi oil shipped to Syria or about the payment mechanisms. The data on the revenues derived from the sale of the oil are not known, in the first place, because the transactions were illegal under the UN sanctions regime and, also, because much of these revenues may have been deposited into the private accounts of Saddam Hussein and his family in multiple banks. In such illicit transactions there are many hidden beneficiaries, including, probably, some on the Syrian side, but it is unlikely that their identity will become known any time soon. Iraq itself had strict rules governing the dissemination of economic data, including figures from the annual budget, and revealing such data was punishable by death.

The Volume of Iraqi Oil Export to Syria

Quoting *Energy Intelligence Journal*, the Iraqi newspaper *Babil* said that in 2001, “without a UN green light,” Iraq was exporting to Syria, 222,000 b/d. This figure was arrived at through a deductive process. Syria was producing 510,000 b/d and using 295,000 b/d for local consumption. This left a surplus of 215,000 b/d. However, Syria was exporting 437,000 b/d, thereby exceeding the local surplus by 222,000 b/d. That volume, according to *Babil*, was being filled by the Iraqi imports through the Iraqi-Syrian pipeline.⁹ International petroleum sources have revealed to the London-based *Al-Hayat* newspaper that the Iraqi oil exports to Syria in February 2003 had reached a record of 253,000 b/d.

Syria has always argued that the oil arriving at its port of Banias was meant to test the technical capacity of the pipeline. After becoming a member of the Security Council on January 1, 2002 and, hence, a member of the Sanctions Committee on Iraq, Syria insisted it would not violate the sanctions regime. As a member of the Security Council Syria would often argue that the Iraqi oil it was receiving was “a gift” from Iraq for consumption by the Syrian people. It was a gift worth in excess of \$500 million annually. For Iraq, that was a small price to pay to earn another friend, in addition to France, Russia and China, on the Sanctions Committee of the Security Council¹⁰

When asked about the smuggling of Iraqi oil to Syria, Iraq’s minister of Oil, *Amer Rashid*, answered that Iraq sought to strengthen its relations with all its neighbors, and that the development of economic relations between Iraq and its neighbors was a right exercised by Iraq as an independent and sovereign country, “regardless of American hegemony.” At no time had Iraq denied the illicit sale of oil to Syria.

Trucking Oil to Turkey

Iraq announced that effective January 7, 2002, Turkish tankers, after a brief hiatus, would be able to cross the Iraqi border again to carry Iraqi diesel oil to Turkey. The newspaper *Babil*, published by Saddam Hussein's son Uday, commented, rather cynically, that "while the trade in diesel is a technical violation of the embargo imposed by the United Nations, the Western countries will turn a blind eye to this lucrative trade which is essential for Turkey whose economy is in serious crisis."¹¹

The Turkish daily *Milliyet* reported that, on February 5, 2002, the office of the Turkish chief of staff sent a secret report to Turkey's prime minister requesting an end to the smuggling of diesel and crude oil from Iraq to Turkey. According to the report, 120,000 tons of crude oil were smuggled into Turkey in 2001, and the PKK members and their terrorist organizations refined it. The report estimated that this operation netted the PKK 330 billion Turkish liras (approx. \$15 million) a year and allowed it to generate more money from investment.¹²

The Jordanian Channel

Oil was also trucked to Jordan. However, the sale of oil to Jordan was exempted from the sanctions regime by the United Nations. And, in any event, Jordan received half the oil free as "a gift from President Saddam Hussein" and paid a discounted price for the other half.

It was also reported at the time that the road between Amman and Baghdad was crowded with cargo shipments and oil tankers. Big transactions, generating big profits, were common. The Iraqi leadership was famous for its "generosity" toward those who supported its causes, and its financing of Jordanian newspapers was well-known. Journalists who received their salaries from the Iraqi embassy in Amman could be critical of the Jordanian government and even of the Jordanian royal institution but never of Iraq. Another way of supporting Jordanian newspapers was through commercial contracts. In one instance, Iraq contracted with a Jordanian newspaper to publish Iraqi schoolbooks. In another instance, a Jordanian newspaper was contracted to print all official stationery for Iraqi ministries. The Jordanian government was a shareholder in some of these public enterprises and ultimately benefited from these transactions.

Iraq and Jordan Sign a New Oil Agreement

In late 2001, Jordan and Iraq negotiated a new agreement on the supply of Iraqi oil to Jordan. Jordan's demands were twofold: first, that the price of oil set at \$21.50 p/b, established in the 2000 agreement be reduced to reflect new market prices; and second, that half the oil supplied by Iraq continue to be supplied free as 'a gift from the Iraqi President Saddam Hussein.'

At the conclusion of the negotiation, the Iraqi government announced that, under the new agreement, Iraq would provide Jordan 5.5 million tons of oil in 2002, or 10 percent more than in the previous year at an estimated cost of \$650 million; Jordan would pay 50 percent of the cost through exports (barter arrangement) and would receive the remaining 50 percent as "a gift" from Saddam Hussein.¹³

Iraq Calls on Sanctions Committee to Stop Financial Violations

Despite a record of program subversion, Iraq loudly demanded reforms of the system. Iraq asked the United Nations to instruct the Sanctions Committee to stop its financial violations and the

waste of oil revenues used for the "Oil for Food Program." It demanded that the committee employ the services of the Iraqi national audit agency that had a distinguished record and expert auditors.

II. Saddam's Oil Embargo

On April 8, 2002, hardly 48 hours after President Bush and Prime Minister Blair declared that Saddam Hussein would be removed from office, Saddam announced, as a part of a speech made to the "heroic and glorious" people of the "Great Iraq," that the country's oil exports would be suspended for one month, effective immediately in solidarity with the Palestinian people.

Underlying the suspension of oil exports were four unstated objectives: first, was an attempt to destabilize the international oil market; second, to embarrass the conservative regimes of the Gulf; third, to appear as the true defender of the Palestinian people; and fourth, to try to appear as someone who was still to be reckoned with. Like most previous "dramatic statements" by Saddam, this one appeared to be based more on miscalculations than on political or economic wisdom. It was obvious that no Arab leader would associate himself at the time with a major Saddam initiative regardless of its intrinsic value, and this particular initiative had no value of any kind.

After the immediate nervous market reaction which boosted oil prices on that day by about 10 percent, realities and common sense began to set in, and the price of oil fell approximately 19 percent by the end of the first week after Iraq's announcement. There may be two reasons for the markets to have so quickly regained their composure: first, other oil exporters, particularly Saudi Arabia, offered assurances that oil flow would not be affected by political considerations; and second, the Iraqi decision ironically coincided with the news that OPEC members had exceeded their quota in March by 1.3 million barrel per day¹⁴ which is approximately equivalent to the size of the Iraqi oil export under the "Oil for Food Program." Iraq's decision remained completely localized; no other oil exporter followed Iraq's lead. Faced with this reality, the Iraqi Oil Minister, 'Amer Muhammad Rashid, could only beg other oil producing countries, "at a minimum do not increase your oil production."¹⁵ Feeling isolated on the subject, Saddam Hussein addressed another speech on April 22 to "Arab brothers, kings, presidents, emirs and officials" imploring them to reduce oil production by 50% "and directly deprive the U.S. and [the] Zionist entity from the other exported half..."¹⁶

Is the Oil Embargo Feasible?

The call by Saddam Hussein for an oil embargo against the United States and its allies received no support from oil producing countries, either Arab or Muslim, if one excludes lip service as meaningful support.

In a news analysis in the Egyptian daily *Al-Ahram*, analyst 'Adel Ibrahim wrote that while an oil embargo resulting inevitably in spikes in oil prices could harm the U.S. economy – such an embargo would lead to economic harm to the oil producing countries themselves which they could ill afford, given the present international economic conditions. He asked whether the Arab countries could repeat the "surprise" or the "shock" of 1973 when the oil embargo was introduced to coincide with the October war of that year. His answer was that repeating that exercise would not be feasible because, with rising competition from Russia, Norway, Angola, Mexico and the countries on the Caspian Sea Basin, OPEC had lost its considerable leverage

over oil supply. He cited the creation in 1974 of the International Energy Agency (a consumer organization headquartered in Paris) which has sought to reduce the world dependency on Arab oil through strategic stockpiling, technological advances and cost reduction. More importantly, OPEC was on record that it would not use oil as a political weapon.¹⁷

Prince Sa'ud Al-Faisal, the foreign minister of Saudi Arabia which is the largest exporter of oil in the world, stressed that the Arab countries depend on their oil exports for economic growth. He said oil "is not a weapon like a gun or a tank but a resource that benefits the national economy." He concluded, "We are in a war with an enemy [Saddam] and the first thing this enemy will do will be to destroy our oilfields."¹⁸

Iraq's newspaper *Babil* which, as mentioned above, was published by Saddam's son, Uday, quoted Russian sources as saying that Iraq's decision was "a mistake."¹⁹

III. The UN and "Oil for Food Program"

UN Director of "Oil for Food" Calls for Reforms

Iraqi newspaper *Babil*²⁰ reported on the conclusion of a 25-day visit to Iraq of Benon Sevan, the Director of the "Oil for Food Program." He told reporters in Baghdad that the program required "continuous reform." He said it was necessary for the Security Council and the Sanctions Committee to review the instruments used in applying the program and to consider the necessary changes that would meet the needs of the Iraqi people. He expressed his regret that the program "suffers from paralysis." Following his meeting with Sevan, Iraq's Vice President, *Taha Yassin Ramadan* declared, "We call on the United Nations to exercise its role to ensure proper implementation of the memorandum of understanding on the 'Oil for Food Program.'"

Sevan said that there was no substitute for the program as long as the sanctions existed. Regrettably, he was quoted saying, "the program cannot be kept independent of the on-going political debate about Iraq." While in Iraq, Sevan visited both the northern and southern regions of the country. These two regions were guaranteed a certain percentage of the program, not subject to Iraqi government's control.

Commenting on Sevan's visit, the official government newspaper *Al-Thawra*²¹ wrote:

...the so-called humanitarian program has changed from an instrument to alleviate the suffering of the Iraqi people to an instrument to harm it. Indeed it has turned into a weapon to wage war on Iraq and to impede its economic growth and scientific and cultural progress. And this has been rejected by the **honest employees of the United Nations** [bold added]...including Messrs, Dennis Haliday, Hans von Sponeck, and Dr. Ashraf Biomi.

Both Haliday (Irish national) followed by von Sponeck (German national) served as UN representatives in Iraq for humanitarian affairs following the signing of the Memorandum of Understanding between the UN and Iraq in 1996 and both, up to the fall of the Saddam regime, made numerous speeches and gave a large number of interviews, many on American TV stations, denouncing the U.N. sanctions as harmful to the people of Iraq but never uttered a critical word about the regime abuses of the "Oil for Food Program" or about the regime itself.

The two UN officials could not have been unaware of the abuses of the program, nor of the Saddam regime.

The Involvement of other U.N. Specialized Agencies

While most of the US focus has been on the United Nations management of the "Oil for Food Program," other parts of the U.N. were indirectly involved as suppliers of services and commodities. In recent weeks, as more documents are becoming available, Iraqi officials have begun to point a finger at the performance of the United Nations specialized agencies in Iraq during the "Oil for Food Program."

A senior official in the Iraqi Governing Council has recently accused unnamed senior agency officials of financial infringements worth millions of dollars. He said that the Ministry of Agriculture possesses documents that provide irrefutable evidence of serious infractions on the part of the United Nations Food and Agriculture Organization (FAO). Two examples illustrate the point. In 2001, Kurdistan needed to import chemical fertilizers for its agriculture. FAO, which is headquartered in Rome, bought the fertilizers for \$7 million from an Italian company despite an offer from an Egyptian firm to provide the same quantity of fertilizers and of the same quality for one-fifth of the cost charged by the Italian company. FAO also imported, in 2002, 1985 model tractors after having them painted in Jordan to give them a newer look. When the London daily, *Al-Sharq Al-Awsat* which reported the story, asked the source as to why there had been no complaints, the source replied that FAO officials had threatened to cancel the program altogether.²² It should be pointed out that UN agencies normally charge a minimum of 15 per cent as overheads when they enter into what is known as "executing agency" arrangements with one of the UN funding agencies.

The alleged looting of Iraq by the FAO is reported to have been extensive. The daily *Al-Sharq Al-Awsat* mentions by name Amir Khalil, the head of the agency in Iraq, who staffed the agency with six Sudanese nationals out of seven expatriate staff in coordination with Saddam's mukhabarat.

A recent article in the daily *Al-Ittihad*²³ of the PUK (Patriotic Union of Kurdistan) singled out for special criticism the United Nations Food and Agriculture Organization (FAO), United Nations Development Programme (UNDP), the World Health Organization (WHO), the United Nations Children Organization (UNICEF), the United Nations High Commissioner for Refugees (UNHCR), United Nations World Food Program (WFP) and United Nations Human Settlement Organization (HABITAT).

The paper argues that most of these UN agencies have been penetrated by elements of the Iraqi *mukhabarat* (intelligence services) which sought to recruit most of their employees, particularly the non-Europeans. Iraqi nationals would have difficulty serving in any of these organizations had they not agreed to collaborate with the Mukhabarat. While the U.N. agencies cannot be blamed for the action of the Iraqi mukhabarat, the paper does accuse them of malfeasance. The paper offers the following examples:

UNICEF organized international demonstrations and protests and the collection of millions of dollars under the banner of protecting the children of Iraq from the effects of the sanctions. The demonstrations were organized under the false pretense that hundreds of Iraqi children were dying because of shortage of medicine and milk. In fact, rather than being spent for the needs of

the children, Iraqi capital was being smuggled to international banks for the benefit of the regime or for buying the consciences of writers, artists and journalists to sing the praise of the regime. At the same time, UNICEF was silent about the killing of thousands of Iraqi children as a result of the forced deportation of Kurdish families and the draining the Iraqi marshes in the south of the country.

Following the adoption of Security Council resolution 986 about "Oil for Food" program, the United Nations World Food Program played a key role in supplying Iraq with food. Under the demands of the regime, imports were limited to Arab countries and friends of the regime regardless of the quality of the food products imported. As an example, an Egyptian trader Mr. Jilda [Imad al-Jilda who is listed in Annex II as having received oil vouchers for 14 million barrel] was given a monopoly for exporting Egyptian food stock to Iraq. Mr. Jilda also brought to Iraq a large number of Egyptian artists and dancers to entertain the Iraqi leadership. Egyptian food exports to Iraq reached \$4 billion in 2001. According to *Al-Ittihad*, Mr. Benon Sevan, the executive director of the program, was aware of these abuses but remained silent for unknown reasons.

¹ See Annex I.

² See Annex II

³ Late 2001, the son of Tariq Aziz, Iraq's deputy Prime Minister, was sentenced to 6 months in prison for allegedly double-crossing Saddam's son, Uday, in a business transaction.

⁴ MEMRI Economic News Report, November 11, 2001

⁵ The International Maritime Bureau has called for increased port controls by Gulf States in a bid to stop unseaworthy vessels smuggling oil out of Iraq and reduce the risk of collisions and oil spills. Ships carrying the flags of Albania, Belize, Bolivia, Cambodia, Comoros, Georgia, Honduras, Maldives, Mauritius, St. Vincent and Grenadines have all been involved in oil smuggling. http://www.iccwbo.org/ccs/news_archives/2001/Iraq.asp.

⁶ "Iraq: Oil Smuggling Produces High Profits," www.rferl.org/nca/features/2000/06/F.RU.000621122248.html.

⁷ MEMRI Economic News Report, September 5, 2001.

⁸ MEMRI Middle East Economic News and Report, March 11, 2002.

⁹ MEMRI Middle East Economic News and Report, December 31, 2001.

¹⁰ MEMRI Economic News Report, October 26, 2001.

¹¹ MEMRI Middle East Economic News and Report, January 7, 2002.

¹² MEMRI, Iraq New Wire, May 18, 2002

¹³ MEMRI Middle East Economic News and Report, December 31, 2001.

¹⁴ *Al-Quds Al-Arabi* (London), and *Al-Watan* (Kuwait), April 10, 2002.

¹⁵ *Babil* (Iraq), April 15, 2002.

¹⁶ *Babil*, April 23, 2002.

¹⁷ *Al-Ahram* (Egypt), April 6, 2002.

¹⁸ *Al-Sharq Al-Awsat* (London), April 20, 2002.

¹⁹ *Babil*, April 9, 2002.

²⁰ *Babil*, February 12, 2002.

²¹ *Al-Thawra* (Iraq), February 12, 2002.

²² *Al-Sharq Al-Awsat*, February 14, 2004

²³ *Al-Ittihad*, February 23, 2004.



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Iraq Buys and Smuggles Its Way Out of UN Sanctions

In an article published recently in the London-based Arabic daily Al-Hayat, reporter 'Hazem Al-Amin' exposes the manner in which Iraqi authorities subvert the sanctions regime in an effort to buy friendships and, at the same time, earn illicit income. According to Al-Amin, two interrelated instruments are used for this purpose: First, the "Oil for Food" program administered by the United Nations, and second, the smuggling of oil, primarily through Syria, but also through Jordan and Turkey and via waterways. The following is a summary of Al-Amin's article:¹

The Jordanian Channel

Iraq's relationship with Jordan is a case in point. The road between Amman and Baghdad is crowded with cargo shipments and oil tankers. Big transactions, generating big profits, are common. The Iraqi leadership is famous for its "generosity" toward those who support its causes and its financing of Jordanian newspapers is well-known. Journalists who receive their salaries from the Iraqi embassy can be critical of the Jordanian government and even of the Jordanian royal institution but never of Iraq. Another way of supporting Jordanian newspapers is through commercial contracts. In one instance, Iraq contracted a Jordanian newspaper to publish Iraqi schoolbooks. In another instance, a Jordanian newspaper was contracted to print all official stationary for Iraqi ministries. Al-Amin points out that the Jordanian government is a shareholder in these newspapers and ultimately benefits from these transactions.

Trade Manipulations

Under the "Oil for Food" program, oil revenues are deposited in a special account administered by the United Nations to allegedly prevent Iraq from using these revenues to buy weapons or weapon-related

equipment and supplies. The special account reimburses the exporters and suppliers for goods exported to Iraq after advance approval by the U.N. However, it is the Iraqi government which negotiates the deals with the exporters or suppliers. At that stage, the two sides (the government and the exporters) connive to add a big margin, a minimum of 10%, to the negotiated price. This additional margin of illicit profit (known in business as pricing transfer) is then transferred in cash to the Iraqi treasury or to an individual beneficiary designated by the government.

Another way of subverting the sanctions regime is to import commodities under the "Oil for Food" program which are not needed for local markets but are re-exported by the government to earn illicit cash. A good example is importing wheat which is then resold to local merchants who export it as a domestic commodity. Iraq then resells the wheat at a lower price than it cost to import, as the government must allow a margin of profit for local trading companies and for the cost of reshipment.

Oil Smuggling

There are other ways, sometimes even more efficient, for the Iraqi government to subvert the sanctions

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Page 1 of 2

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regime. As in many other developing countries, Al-Amrin points out, "politics and trade are indistinguishable," particularly in view of the fact that the ruling elites often control the economy and monopolize economic activities. In Iraq, most of the trading companies are owned by members of the ruling Ba'ath Party or their children, trade unions, activists, and media personalities, who turn these companies into "a large political bazaar."² Foreign trading companies, which are not allowed to do business directly with the government of Iraq, operate through an Iraqi representative with political clout. Some traders, particularly those from Qatar, enter into contracts through these agents to buy smuggled Iraqi oil at a discounted price. Once the oil reaches Qatar, it is issued a new "certificate of origin" and sold into the international markets.

The problem is that many of the ships used for oil smuggling are unseaworthy and cause serious environmental damage to the Gulf.³ According to the International Maritime Bureau, smugglers sail their ships at night through the Shatt Al-Arab waterway between Iraq and Iran, claiming to be heading for Iranian ports; then they turn north and pick up the oil Iraqi terminals. They go back through Iranian waters, sometimes paying a transit fee on the way. Another study claims that the smugglers pay Iran \$50 a metric ton for a tariff to use Iran's waters.⁴

Special Deals for Friends of the Iraqi Regime

There is ample evidence that Iraq uses the "Oil for Food" program to acquire support among writers, artists, singers, and journalists across the Arab world. One way to secure their support, according to an Iraqi official who fled to Amman, is for the government to grant individuals a coupon which allows them to

receive a certain amount of oil either free or at discounted prices. The beneficiary of the coupon uses the services of a local agent to sell the coupon to a foreign company. The buyer of the coupon submits it to SOMO (State Oil Marketing Organization) of Iraq, which, in turn, will pump the oil through the Iraqi-Syrian oil pipeline for the benefit of the buyer who is responsible for shipping the oil. There are various estimates about the volume of Iraqi oil exports to Syria through the Kirkuk-Banani pipeline but it is probably close to \$250,000 b/d.⁵ The potential to use this money for Saddam Hussein's weapons of mass destruction is enormous.

An additional form of illicit income is the special surcharge of \$0.25-0.40 levied by SOMO on each barrel of oil sold by Iraq. While this surcharge is illegal under the UN sanctions regimes, most traders are prepared to pay it to maintain good relations with SOMO. The many efforts by the UN to insist on an ex post-pricing regime of the Iraqi oil have apparently failed.

New Sanctions Regime – No Real Change

On May 14, the Security Council approved a revised sanctions regime on Iraq. While Iraq is still denied access to items that may be used for dual (military as well as civilian) purposes, such as heavy trucks and communications equipment, it may import everything else subject to a quick review by the Security Council.

As has been the case since the "Oil for Food" program was introduced in 1996, oil revenues will continue to be deposited in the special account administered by the UN, and Iraq will, no doubt, continue to play its old tricks to subvert the system and generate illicit revenues.

¹ *Al-Hayat*, May 8, 2002.

² Late last year, the son of Tariq Aziz, Iraq's deputy Prime Minister, was sentenced to 6 months in prison for allegedly double-crossing Saddam's son, Uday, in a business transaction.

³ The International Maritime Bureau has called for increased port controls by Gulf States in a bid to stop unseaworthy vessels smuggling oil out of Iraq and reduce the risk of collisions and oil spills. Ships carrying the flags of Albania, Belize, Bolivia, Cambodia, Comoros, Georgia, Honduras, Maldives, Mauritius, St. Vincent and Grenadines have all been involved in oil

smuggling.

http://www.iccwbo.org/ccs/news_archives/2001/Iraq.asp.

⁴ "Iraq: Oil Smuggling Produces High Profits," www.rferl.org/nca/features/2000/06/F_RU_000621122248.html.

⁵ *Al-Hayat*, February 2 and February 14, 2002; and <http://www.al-jazeera.com/economics/>, February 22-3, 2002. A recent study by *The Wall Street Journal* (May 2, 2002) suggests that Iraq receives at least \$1 billion annually from its oil exports to Syria.



February 20, 2004

No. 164

The Saddam Oil Vouchers Affair

By Dr. Nimrod Raphaeli*

Introduction

On January 25, 2004, the *Iraqi independent daily Al-Mada* published a list of approximately 270 individuals and entities who were beneficiaries of **Saddam Hussein's** oil vouchers.¹ The report evoked reactions from many of those included in the list as well as from the Arab media, among them apologists for Saddam's regime. The fact that so many have opted for silence may give credence to the list's authenticity.

A former undersecretary in the Iraqi Ministry of Petroleum, **Abd Al-Saheb Salman Qutb**, said that the ministry possesses documents proving the authenticity of the list published by *Al-Mada*. The list was originally the property of the **State Oil Marketing Organization (SOMO)**, which was responsible for marketing Iraqi petroleum.² Mr. Qutb also said that the ministry was collecting the information for submission to **Interpol**, which could then pursue the voucher beneficiaries.³

The Iraqi Governing Council has focused on 46 foreign individuals and organizations included on the lists, primarily from neighboring countries, to determine appropriate action.⁴ Council member **Muwafaq Al-Rabi'i** said during a visit to Beirut that the council has "tons of documents" but emphasized that the publication of these documents will be handled in a constructive way and not "for the sake of vengeance and revenge."⁵

In describing what it called "the curse of the Iraqi vouchers," the *London Arabic-language daily Al-Hayat* said that it expects more names and details to be made public in the near future and anticipates the revelation of a scandal of vast dimensions transcending countries and continents, implicating many prominent individuals and organizations.⁶

How It Worked: The Voucher Transactions Method

In a subsequent article, *Al-Mada* provides details on the allocation and sale of oil vouchers. In general, the vouchers were given either as gifts or as payment for goods imported into Iraq in violation of the U.N. sanctions. The voucher holder would normally tender the voucher to any one of the specialized companies operating in the United Arab Emirates for a commission which initially ranged from \$0.25 to \$0.30 per barrel, though it may have declined in later years to as little as \$0.10 or even \$0.05 per barrel because of oil surplus on the market.⁷ In other words, a voucher for 1 million barrels would have translated into a quick profit of \$250,000-300,000 on the high side and \$50,000-100,000 on the low side – all paid in cash. According to *Al-Mada*, Jordan will seek to tax the illicit profits of citizens who benefited from the sale of the vouchers.

One of the common arguments by recipients of vouchers was that the vouchers paid for goods provided in the framework of the U.N.-administered Oil for Food program. However, under the Memorandum of Understanding governing the program, oil allocations were intended for "end users," meaning those with refineries. Most of the

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Page 1 of 17

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voucher recipients would be considered "non-end users." Moreover, if vouchers were used to pay for goods, it would suggest that these were not authorized by the program and should be considered illicit since all contracts approved by the U.N. were reimbursed from the trust account where the oil revenues were kept, at a French bank, at Iraq's insistence. According to the United Nations: "The oil buyer had to pay the price approved by the Security Council Sanctions Committee into a U.N. escrow account, and the U.N. had to verify that the goods purchased by Iraq were indeed those allowed under the program. But the U.N. had no way of knowing what other transactions might be going on directly between the Iraqi government and the buyers and sellers."⁸

This report reviews the Saddam oil vouchers affair, in two parts:

Part I: (A) the list of oil vouchers recipients; and (B) reactions by implicated individuals and organizations.

Part II: Arab media reactions.

The Saddam Oil Vouchers Affair, Part I:

A. Complete List of Recipients of Oil Vouchers (in alphabetical order by country)

(All numbers for barrels of oil unless indicated otherwise)

All names on the list were transliterated from the Arabic. Although every effort was made to be precise, some inaccuracy is inevitable.

Algeria

1. Abd Al-Majid Al-Attar 6 million
2. Abd Al-Qadr bin Mussa 6 million

Austria

1. Hans Kogler 2 million
- Arab-Austrian Committee 1 million

Bangladesh

1. Mawlana Abd Al-Manan 43.2 million

Bahrain

1. Kadhém Al-Darazi Company 2 million
2. Ali Al-Muslim Company 3 million
3. Concrete Contracting Company 2 million

Belarus

1. Liberal Party 6 million
2. Belarus Communist Party 7 tons
3. Belminal Company 14.2 million
4. Belfarm Company 4 million
5. Chief of the President's Bureau 6 million
6. Lada Company 2 million

Brazil

1. Fuad Sirhan 10 million
2. October 8 Movement (Chavez) 4.5 million

Canada

1. Arthur Millholland 9.6 million

Bulgaria

1. The Socialist Party of Bulgaria 12 million

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*Inquiry & Analysis**Page 3 of 17*

2. Arak Paul	2 million
Chad	
1. Chad Foreign Minister	3 million
China	
1. Mr. Juan	39.1 million
2. Noresco	17.5 million
3. Zank Ronk	13 million
4. Biorg	13.5 million
5. South Holken	1 million
Cyprus	
1. Muhammad Al-Hawny	17 million
2. Nefta Petroleum	13.2 million
3. Continental	1 million
Egypt	
1. Ancom Co. (Muhammad Shatta)	14 million
2. Abd Al-Adham Manaf	6 million
3. Khaled Gamal Abd Al-Nasser	16.5 million
4. Imad Al-Jilda	14 million
5. Muhammad Salah	7 million
6. Muhammad Hilmi	4.5 million
7. Arab Company limited	6 million
8. Nile & Euphrates Co.	3 million
9. Mahmoud Mahdi Al-Ma'sarawi	7 million
10. Al-Hami Bashanti Foundation	2 million
11. International Multaqa Foundation	2 million
France	
1. ADDAX	8.3 million
2. Trafigura Patrick Maugein	25 million
3. Michel Grimard	17 million
4. Franco-Iraqi Friendship	15.1 million
5. Ayix	47.2 million
6. Charles Pasqua	12 million
7. Alias Al-Gharzali	14.6 million
8. IOTC (Claude Caspert)	4 million
9. Jean-Bernard Merimee	3 million
10. Jean-Bernard Merimee	8 million
11. de Souza	11 million
Hungary	
1. Hungarian Interest Party	4.7 million
India	
1. Biham Singh	5.5 million
Indian Congress Party	4 million

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*Inquiry & Analysis***Indonesia**

1. Daughter of President Sukarno	2 million
2. Hawa Atlantic	2 million
3. Makram Hakim	3 million
4. Megawati	8 million
5. Muhammad Amin Rayyis	4 million
6. Natuna Oil	2 million

Ireland

1. Riyadh Al-Taher	11 million
2. Afro-Eastern	2 million

Italy

1. Roberto Frimagoni	24.5 million
2. Salvatore Nicotra	20 million
3. Mr. Feloni	6.5 million
4. Father Benjamin	4.5 million
5. West Petrol	2 tons
6. Hetralk	2 tons
7. IPS (Italian Petroleum Assoc.)	1 million

Jordan

1. Leith Shbeilat	15.5 million
2. Fakhri Qa'war	6 million
3. Grand Resource	2 million
4. Al-Rashid International (Ahmad Al-Bashir)	9 million
5. Fawwaz Zuraiqat	6 million
6. Salem Al-Na'ass	3 million
7. Zayyad Al-Ragheb	7 million
8. Mashhur Haditha	4 million
9. Shaker bin Zayd	6.5 million
10. Muhammad Saleh Al-Hourani	4 million
11. Tojan Faisal	3 million
12. Ministry of Energy (Jordan)	5 million
13. Zayyad Yaghmour	2 million
14. Wamidh Hussein	1 million

Kenya

1. Muhammad Othman Sa'id	10.5 million
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Lebanon

1. B.B. Energy	2 million
2. Fadi Al-Alamiyya (International)	2 million
3. Haitham Seidani	2 million
4. Plant [Blunt?] Petroleum	1 million
5. George Tarkhaynan	7 million
6. President Lehoude's son	4.5 million
7. Ali To'ma	1 million
8. Al-Hilal Co. (Adnan Al-Hanani)	1 million
9. International Company for Trade	

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<i>Inquiry & Analysis</i>	
and Investment	3 million
10. Faisal Darniq	3 million
1. Fim Oil Company	1 million
12. Najah Wakim	3 million
13. Osama Ma'rouf	3 million
14. Zuhair Al-Khatib	3.5 million
Libya	
1. Shukri Ghanem	6 million
Malaysia	
1. Fa'iq Ahmad Sharif	12.5 million
2. Pitmall Company	4 million
3. Trader Babar	4 million
4. Mastek (Fa'iq Ahmad Sharif)	57 million
5. Hawala	7 million
Myanmar Federation [Burma]	
1. Minister of Forestry	5 million
Morocco	
1. Abdallah Al-Sallawi	7.2 million
2. Nadhel Al-Hashemi	5.7 million
3. Muhammad Al-Basri	4.5 million
Netherlands	
Sy Bolt	3 million
Nigeria	
1. Hayson	7.2 million
2. Raz Company	7.5 million
3. A.A.G. Company (Nigerian Ambassador)	1 million
4. Comeback	4 million
Oman	
1. Shanfari Group	5 million
Palestine	
1. Abu Al-Abbas	11.5 million
2. Abdullah Al-Hourani	8 million
3. Wafa Tawfiq Sa'igh	3.5 million
4. Liberation Organization	4 million
5. Popular Front for the Liberation of Palestine	5 million
6. Liberation Organization (Political Bureau)	5 million
Pakistan	
Oil & Gas Group	10 tons
1. Abu Abd Al-Rahman	11.5 tons
3. Sayyed Azzaz	1 ton

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*Inquiry & Analysis**Page 6 of 17***Panama**

- | | |
|----------|--------------|
| 1. Sevan | 11.5 million |
|----------|--------------|

Philippines

- | | |
|---------------------------------|-----------|
| 1. Philippines Production Group | 3 million |
|---------------------------------|-----------|

Qatar

- | | |
|--------------------------------|------------|
| 1. Hamad bin Ali Al-Thani | 14 million |
| 2. The Duleimy Group | 4 million |
| 3. Gulf Petroleum | 2 million |
| 4. Petrolina Oil | 2 million |
| 5. Petroleum Wells Maintenance | 2 million |

Romania

- | | |
|-------------------------|-------------|
| 1. Delf Aderlink | 1 million |
| 2. Romanian Labor Party | 5.5 million |

Russia

- | | |
|---|--|
| 1. The Russian State | 1.366 billion |
| 2. Zarubesneft | 174.5 million |
| 3. Russneft Ampex | 86.9 million (for the office of the president, including 1 million to Mr. Tetzenko, Russian Ambassador to Baghdad) |
| 4. Communist Party Companies | 137 million |
| 5. Amircom (Unity Party/Ministry for Emergencies) | 57 million |
| 6. Mishinoimport | 1 million |
| 7. Al-Fayco (Russian Foreign Ministry) | 128.8 million |
| 8. Yatumin (Russian Foreign Ministry) | 30.1 million |
| 9. Slavneft | 25.5 million |
| 10. Zan Gaz | 49.1 million |
| 11. Rosneft Company | 35.5 million |
| 12. Caspian Investment | 8.5 million |
| 13. Kamanef Company | 7.5 million |
| 14. Gasprom | 26 million |
| 15. Tatneft | 1 million |
| 16. LUKoil | 63 million |
| 17. Surgut Neftegaz | 4 million |
| 18. Siberia Oil & Gas company | 1 million |
| 19. Nafta Moscow Company | 25.1 million |
| 20. Onaco Company | 22.2 million |
| 21. Sidanco Company | 21.2 million |
| 22. Sibneft | 8.1 million |
| 23. Transneft | 9 million |
| 24. Yukos | 2 million |
| 25. Liberal Democratic Party (Zhirinovsky) | 79.8 million |
| 26. Peace and Unity Party | 34 million (the list mentions party chairwoman Sazhi Umalatova) |

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27. Russian Committee of Solidarity with the People of Iraq	6.5 million (its chair, Sergei Rudasev is mentioned)
*28. Russian Association for Solidarity with Iraq	12.5 million (its chair, [Zhorafilon] is listed)
29. Russneft-Gazexport	12.5 million
30. Uralinvest (Stroyev)	8.5 million
31. Moscow Science Academy	3.5 million
32. Romain (son of former ambassador to Baghdad)	19.7 million
33. Zarabsneft (Gobkin University)	3.5 million
34. Nordvest Group)	2 million
35. Zarbshneft & Gas (Mr. Hassan)	3 million (only one million delivered)
36. Soyuzneftgaz (Yuri Shafrannik)	25.5 million
37. Nikolayi Ryzhkov	13 million
38. Stroyneftgas	6 million
39. Akht Neft Company	4.5 million
40. Chechna Administration	2 million
41. 'Adel Al-Jablawi (I.N.M. Airways)	6 million
42. Khrozolit	5 million
43. Trader Nafta	3 million
44. Chief of the President's Bureau	5 million
*5. Russian Orthodox Church	5 million
.5. Russian National Democratic Party	3 million
Saudi Arabia	
1. Najah Company	3 million
2. Asiss Company	2 million
Slovakia	
1. Slovak Communist Party	1 million
South Africa	
1. Invume Management (Sandy Majali)	9 million
2. Tokyo Saxwele Holdings (MVL)	4 million
3. Montega	4 million
4. Omni Oil	4 million
Spain	
1. Bassim Qaqish	17.5 million
2. Javier Robert	9.8 million
3. Ali Balutt	8.8 million
Sudan	
Samasu	8 million
2. Petroleum Products Co.	2 tons
3. Oil Plus	2 tons

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*Inquiry & Analysis***Switzerland**

1. Media	2 million
2. Delta Service	2 million
3. Iblom	1 million
4. Sipol	1 million
5. Glencore	12 million
6. Lakia	2 million
7. Elkon [or Elcon]	23 million
8. Taurus	8 million
9. Petrogas	5 million
10. Finar [Holdings]	21 million
11. Napex Company	3 million

Syria

1. Awadh Ammura	18 million+
2. Beshara Nuri	12 million+
3. Ghassan Shallah	11 million
4. Muhammad Amar Nofel	3.5 million
5. Tamam Shehab	1 million
6. Hamida Na'na'	9 million+
7. Farras Mustapha Tlass	6 million
8. Salim Al-Toon	3.5 million
9. Lutfi Fawzi	2.5 million
10. Lid Guarantees	3.5 million
11. Ghassan Zacharia	6 million
12. Muhammad Ma'moun Al-Sab'i	4 million
13. Hassan Al-Kayal	2 million
14. Anwar Al-Aqqad	2 million

Thailand

1. Thai Rice Trader Jaiporn	1 million
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Tunisia

1. Madex Petroleum	6.7 million
2. Farnaco	3.7 million
3. Maydor	4 million

Turkey

1. Zayn Al-Abideen Ardam	27 million+
2. Lutfi Dughan	1 million+
3. Muhammad Aslan	13 million
4. Techfen	15.5 million
5. KCK Company	1.5 million
6. Delta Petroleum	1 million
7. Sita	1 million
8. Ozia	2.5 million
9. Samir	2 million
10. Muhtashem	2 million
11. Maqdar Sarjeen	2 million

*Inquiry & Analysis**Page 9 of 17***Ukraine**

1. Social Democratic Party	8.5 million
2. Ukraine Communist Party	6 million
3. Energy Resources	2 million
4. Fazmash Ampex	2 million
5. Neftogas	8 million
6. Hugh Company (Sokolov)	5 million
7. Orshansky	4.5 million
8. Fideralty Torkovy	1 million
9. Trans Isko	1 million
10. The Ukrainian House	1 million
11. F.T.D.	2 million
12. Socialist Party of Ukraine	2 million

United Arab Emirates

1. Fal Petrol	1.8 million
2. Ahmad Mani' Sa'id Al-Utaiba	11 million
3. Jewan Oil	7.5 million
4. Sultan bin Zayed Al-Nahyan	4 million
5. Al-Huda	22.9 million
6. Issa bin Zayed Al-Nahyan	5 million
7. Millenium	2 tons
8. Bony Fiol	1 ton

United Kingdom

1. George Galloway/Nawwaf Zuraiqat	19 million
2. Mujahideen Khalq	36.5 million

U.S.A.

1. Shaker Al-Khaffaji	7 million
2. Samir Vincent	10.5 million

Vietnam

1. Vinapco	1.2 million
2. Darlink Med	2 million
3. Vinafod	6 million
4. O.S.C.	2 tons

Yemen

1. Abd Al-Karim Al-Aryani	7.8 million
2. Tawfiq Abd Al-Raheem	1.5 million
3. Shaheer Abd Al-Haq	7 Million+

Yugoslavia

1. Socialist Party	22 million
2. Left Party	9.5 million
3. Italian Party	16 million
Kokostancha Party	9 million

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B. Reactions of Implicated Individuals and Organizations

It is hardly surprising that most of those interviewed or those who reacted otherwise denied receiving such vouchers or claimed that the vouchers were received in the framework of the Oil for Food program. This latter argument is somewhat disingenuous because legitimate suppliers of goods and services under the program were paid from a trust account administered by the United Nations, and with vouchers from Saddam. Some may have made statements to newspapers not readily available to MEMRI, and others may have opted to remain silent.

Algeria

Abd Al-Majid Al-Attar, a former director-general of the Algerian national oil company **SONATRAC** (6 million barrels) wrote a long rebuttal in the London daily *Al-Hayat* stating that the 6 million barrels were marketed by Algerian companies. According to him, the profits were used for humanitarian assistance to the Iraqi people. Al-Attar likes to remind the reader "that every airplane [carrying assistance] which landed in Baghdad cost hundreds of thousands of dollars *without getting involved in details*" [emphasis added].⁹ Radio Algiers announced that the state would investigate allegations of corruption.¹⁰

Bahrain

Ali Al-Muslim (3 million barrels) said he had visited Iraq 22 times before the war but his trips were primarily "humanitarian," and that he had sent food and cleaning materials within the framework of the Oil for Food program. As a sign of appreciation, the regime offered Al-Muslim the opportunity to sell, as a broker, 3 million barrels. Al-Muslim ran into difficulties selling the vouchers and hence he withdrew from the deal.

Hassan Al-Darazi, the son of businessman **Kadhem Al-Darazi** (2 million barrels), said his father had made a pilgrimage to Mecca but that all his activities were "purely commercial."¹¹

Bulgaria

The Socialist Party of Bulgaria (12 million). **President Georgi Parvanov**, head of the Socialist Party, characterized the allegation as "ill-advised black humor," but ordered an inquiry into the accusation.¹² President Parvanov also met with the U.S. Ambassador in Sofia and sought his help to clarify the facts regarding the list.¹³

Canada

Arthur Millholland, CEO of the Calgary-based Oilexco (9.6 million barrels), denied he had received vouchers and criticized MEMRI, which he claimed "was critical of the recent U.S.-led war with Iraq and participated in the UN's Oil for Food program to help Iraqi children [sic]." "Obviously," he hinted, MEMRI "has some motives."¹⁴

Egypt

Abd Al-Adhim Manaf (6 million barrels), the owner and editor of *The Voice of the Arabs (Sawt Al-Arab)*, and a member of parliament, offered to show evidence that he had been offered oil vouchers, but had refused them.¹⁵

Muhammad Shatta (14 million barrels) maintained that he served as an agent for two international petroleum companies and that all his transactions were under the Oil for Food Program. He said there was small-scale smuggling of oil of 3000 barrels at a time by small merchants, but did not explain how the smuggling was related to the vouchers he received.

Khaled Abd Al-Nasser, the son of the late Egyptian president **Gamal Abd Al-Nasser**, (16.5 million barrels), could not be reached by the Egyptian weekly *Roz Al-Youssef* because all his phones "were out of order." However, the weekly cites a number of instances of Abd Al-Nasser's involvement in activities for solidarity with Iraq.

Egyptian MP Imad Al-Gilda (14 million barrels) denied receiving any vouchers. *Roz Al-Youssef* reported that there were rumors before the war that Al-Gilda was "part of the Iraqi propaganda machine."

Mahmoud Mahdi Al-Ma'sarawi (7 million barrels) attributes the inclusion of his and other names on the list to their stand against U.S. actions in Iraq.

Muhammad Hilmi (4.5 million barrels), who named his son Saddam, said he would be proud if his son would be another Saddam Hussein.¹⁶ Otherwise, he denied the allegation.

It is noteworthy that Egyptian activist **Mamdouh El-Sheikh** filed suit in May 2003 against several Egyptian politicians and journalists, accusing them of accepting bribes from Saddam which violated Egyptian law.¹⁷

France

Former interior minister Charles Pasqua (12 million barrels) denied any involvement and suggested another, unnamed former French interior minister may have been the beneficiary.¹⁸ According to *The New York Post* Mr. Pasqua, "a close friend and former colleague of Chirac ... fought to allow visits by top Iraqi officials to France in 1993."¹⁹

Patrick Maugein, CEO of the oil firm **SOCO International** (25 million barrels), was quoted as saying that he did a lot of business in Iraq under the Oil for Food program, "but none of it was illegal."²⁰ It was mentioned that the 55-year old businessman "appears to wield [influence] with **President Jacques Chirac**."²¹

Jean-Bernard Merimee (3 million and another 8 million barrels) was the French Ambassador to the United Nations and France's representative in the Security Council.

Michel Grimard (17 million barrels) is the founder of the French-Iraqi Export Club.

Gilles Munier, secretary general of the Franco-Iraqi Friendship Association, said his organization introduced numerous businesses, oil and otherwise, to contracts in Iraq, but that it was all perfectly legal. For each successful introduction, he said he "received a commission."²²

Hungary

Hungarian Interest Party (MEP). Quoting from the **Hungarian daily Nepszabadsag**, the MEP was established by **Izabella Kiraly B.** in the fall of 1993 after her expulsion from the **Hungarian Democratic Party**. Ms. Kiraly refused to talk to the Hungarian newspaper but her website includes slogans such as: "Hands off Iraq!" "Peace Instead of War," and "America! Leave the World Alone in Peace!" On her site, President Bush in a Nazi uniform with the U.S. flag in hand repeats a famous statement by Hitler: "One People, One Empire, One Ruler" (*ein Volk, ein Reich, ein Fuehrer*).²³

Indonesia

President Megawati Sukarnoputri (2 million as "daughter of President Sukarno" plus 8 million barrels under her own name). A spokesman told the **Australian Broadcasting Corporation** that President Megawati was "aware of the allegations."²⁴

People's Consultative Assembly speaker Muhammad Amin Rayyis (4 million barrels) did not respond to the Australian Broadcasting Corporation.

Italy

Roberto Formigoni (24.5 million) is the president of Lombardia.

Father Benjamin (4.5 million barrels) is a French Catholic priest who arranged a meeting between the **Pope** and **Tariq Aziz**, Iraq's former deputy prime minister.²⁵

Salvatore Nicotra (20 million) is a former NATO pilot who became an oil merchant.

Jordan

Leith Shbeilat (15.5 million barrels) is an Islamist with a pro-Saddam record. He stressed that the United Nations system was so stringent that it would not have allowed anyone to play with oil contracts and that the publication of the list was intended "to slander those who were defending the Iraqi people."²⁶ Ironically, he served as the chairman of the anti-corruption committee of the Jordanian parliament.²⁷

Fawwaz Zureiqat (6 million barrels) whose name was linked with the British MP **George Galloway** (see United Kingdom) said that the accusations are silly. He said that he had earned a commission of five cents per barrel, which had not been paid by the Iraqi government.

Tojan Faisal, a member of parliament (3 million barrels), said she acted to help a friend in need. She identified him as **Abd Al-Rahman Al-Qatarna**.²⁸

Fakhri Qi'war (6 million barrels) is a former Jordanian MP and a journalist. He said the list "has no basis in truth and we do not know its reasons." He added that the accusation "is an attempt to slander those who stand

against the American occupation of Iraq and stand with the Iraqi resistance and the Iraqi brethren and cooperate and support them."²⁹

Wamidh Hussein (Majali) (1 million barrels) denied receiving oil. He said: "I was a member of the Popular Jordanian Committee for Solidarity with Iraq, and provided medicines. We paid for it from our own pockets."³⁰

In response to a parliamentary question, Deputy Prime Minister **Muhammad Al-Halaifa** said: "The issue is under follow-up, and we are seeking to verify whether some people have acquired [Iraqi] graft."³¹

Lebanon

Emil Lahoud (4.5 million barrels) is a Lebanese MP and the son of **Lebanese President Emil Lahoud**. In an interview with the **London daily Al-Sharq Al-Awsat**, Lahoud maintained that his inclusion on the list was aimed at undermining the position taken by his father which "supports the [Palestinian] resistance, stands by Syria, rejects the occupation of Iraq, and demands the liberation of all the Palestinian lands."³²

Osama Ma'ruf (3 million barrels), another MP and head of the Nasserite Popular Organization, admitted receiving a voucher to sell oil for commission. However, he added that the voucher had cost Iraq nothing and that he had in any event never exercised the option.³³

Najah Wakim (3 million barrels), a former MP, denied the allegation, maintaining that **Al-Mada** editor **Fakhri Kareem** said on television, without specifying time or venue, that he received the list from the CIA without supporting evidence.³⁴ Kareem told the **Lebanese daily Al-Nahar** that he had never spoken with Wakim.³⁵

Libya

Shukri Ghanem (6 million barrels) is the Libyan prime minister.

Morocco

Muhammad Al-Basri (4.5 million barrels) who has since died, was a former Moroccan Socialist leader.³⁶

anama

One surprise on the list was **Mr. [Benon] Sevan** (11.5 million barrels) who is the Executive Director of the Oil for Food program. A U.N. spokeswoman denied the charges and said that the U.N. secretary-general was completely satisfied with Sevan's integrity.³⁷ Mr. Sevan denied the allegations and stated that "it was incumbent on those who published these allegations to provide the necessary documents."³⁸

Qatar

Abd Al-Aziz Mubarak Al-Duleimi (4 million barrels) said he had contracts to sell 10 million barrels as a broker under the U.N. supervision and had nothing to do with Saddam's coupons or bribes.³⁹

Romania

Two entities are listed under Romania: **Delf Aderlink** (1 million barrels) and the **Romanian Labor Party** (5.5 million barrels). The following is a slightly edited version of an email to MEMRI from a Romanian journalist:

"The owner of Bulf Drilling, **Cornel Bulf**, is a pretty well known Romanian businessman, deeply involved in oil business. He has a lot of privileged businesses with the state-owned oil company **Petrom**. He claimed that all the Iraqi oil that he sold was with U.N. permission – and he showed me some approvals in this regard. Nevertheless, I take into consideration that he could have traded Iraqi oil both with and without approval, and that U.N. approvals were meant to cover his illicit trade.

"The son of the president of Labor Party, **Ioan Cristian Nicolae**, in connection with some politicians, has just bought a huge building in Bucharest for \$1.5 million."⁴⁰

Russia

Russia, which received the greatest number of oil vouchers, has said nothing.

ikolay Ryzhkov (13 million barrels) was a U.S.S.R. prime minister.

South Africa

Tokyo Saxwele Mvelaphanda Holdings (MVL) reacted angrily to its inclusion in the list, but has not denied buying oil under the Oil for Food program.⁴¹

Spain

Ali Balutt or Balout (8.8 million barrels) is a Lebanese journalist.⁴²

Switzerland

Glencore (12 million barrels) is the largest commodity trader in Switzerland.

Petrogas (5 million barrels) is listed in Switzerland under three sub-companies – **Petrogas Services, Petrogas Distribution, and Petrogas Resources** – and is associated with the Russian company **Rosneftgazetroy** (35.5 million barrels).

Syria

Hamida Na'na (over 9 million barrels) is the owner of *Al-Wifaq Al-Arabi* and the author of a biography of former Iraqi deputy prime minister **Tariq Aziz**. She is currently writing a biography of **Iraqi general Ali Hassan al-Majid, known as Chemical Ali**.⁴³

Farras Mustafa Tlass (6 million barrels) is the son of **Mustafa Tlass, Syrian Defense Minister** and one of the pillars of the Syrian Ba'ath party. He said his company had bought oil from Iraq under the Oil for Food program and denied receiving any oil outside the framework of that agreement.⁴⁴

United Kingdom

1. There is a reference on the margin of the list to "a **Mr. Burhan Al-Chelebi**" and "Fortrum and Gas-Oy," a Finnish purchasing company, in an agreement on December 29, 1999. There is also another reference to former MP George Galloway, as beneficiary of 3 million barrels.
 2. There is another reference to George Galloway's receiving 4 million barrels, through Jordanian Fawwaz Zureiqat, of Aredio Petroleum, in an agreement on July 10, 2001.
 3. Similarly, Middle East Advance Semi-Conductor, a Jordanian company, referred to Galloway as receiving 3 million barrels in an agreement on June 8, 2001, also via Mr. Fawwaz Zureiqat.
 4. Similarly, March 5, 2001 - 2 million barrels
 5. Similarly, December 12, 2002 - 3 million barrels
 6. Similarly, June 3, 2002 - 3 million barrels
- Thus, "George Galloway as beneficiary is cited six times, twice in the name of Finnish and French companies and the rest Jordanian under the name of Fawwaz Zureiqat. All these requests were approved by the minister of oil, with his signature."⁴⁵

When asked by *ABC News* about being on the list, Galloway replied: "Not one brass farthing. I've never seen a barrel of oil, owned one, bought one."⁴⁶

The **Mujahideen Khalq** (36.5) is an organization which opposes the Iranian regime which had operated from within Iraq under the Saddam regime. The United States has classified it as a terrorist organization and it has recently been ordered to leave Iraq.

United States

Shaker Al-Khaffaji (7 million barrels) advanced \$400,000 to Scott Ritter, former U.N. weapons inspector in Iraq. Ritter produced a documentary purporting to tell the true story of the weapons inspections, which in his telling were corrupted by sinister U.S. manipulation.⁴⁷

Samir Vincent (10.5 million barrels): In 2000, Vincent, an Iraqi-born American who lived in the U.S. since 1958, organized a delegation of Iraqi religious leaders to the U.S., which met with former president Jimmy Carter.

The Saddam Oil Vouchers Affair, Part II: Arab Media Reactions

Arab Media Ignore the List

In an op-ed titled "Beautiful Masks over Ugly Faces" in the London daily *Al-Hayat*, **Salama Na'mat** criticizes Arab television and other media for showing little interest in the oil voucher scandal. Because releasing the list shows Saddam Hussein's bribery of hundreds of politicians and journalists from 50 Arab and foreign countries, the Arab media have neither pursued the issue nor investigated the matter. In fact, Na'mat says, the publication of the list has triggered even less interest in official circles than in the media. Na'mat continues:

"The reality is that some Arab governments perhaps do not object that politicians and media people benefit from Saddam's bribes either because they are also involved or see no harm in bribes since it is a normal practice by the Arab regimes in varying degrees. Perhaps the political agenda of the deposed Iraqi regime was [no different] than the agendas of these governments. It mattered not to those who were bribed and those who shut their eyes that the money they received from the deposed regime to sing its praise were taken away from the Iraqi people which was destroyed by Saddam's wars and his stupid policies."⁴⁸

Ahmad Al-Rab'i, a columnist in the London daily *Al-Sharq Al-Awsat*, points out that much of the Arab press, with the exception of the Iraqi, Jordanian, and Lebanese press, has not dared to publish the lists because they included powerful political figures. The Iraqi and Kuwaiti press, in particular, have reason to do so because they have been making the point that Saddam's defenders were not driven by nationalist or Islamic principles, but were paid off.⁴⁹

An op-ed by **Mazen Hammad** in the Qatari daily *Al-Watan* under the title "Publish the Names, May Allah Have Mercy on You!" wrote:

"The scandal is growing, and its threads, hour after hour, are encircling the necks of many who allege pan-Arabism and nationalism as well as those traders of opportunities. While it is too early to point an accusing finger at anyone in particular, those who have 'received' from the Saddam regime, in both Arab and non-Arab countries, are aggrandizing and defending him, count in the hundreds, if not more.

"The scandal is growing because among the names are heads of political parties, parliamentarians and the children of heads of states and governments.

"The scandal is growing because it is no secret that hundreds of apartments, Mercedes automobiles, cash and various grants were distributed by Saddam's aides to ministers, under secretaries, journalists, writers and artists.

"... It is also important that no one be excluded [from punishment] if his name appeared on the list regardless of the amount of his influence and the level of his position...

"[The scandal] is a flagrant example of the duality of the life of the Arab politician: he lectures nationalism during the day and nurses oil at night."⁵⁰

'Once Again, the Citizens Pay'

Writing in the Kuwaiti daily *Al-Siyassa*, columnist **Shaker Al-Nabulsi** says: "At the outset, it appears that the list ... is valid and the evidence is that some of those whose names were mentioned have not denied it." Al-Nabulsi's column focuses on Jordanian Islamist Leith Shbeilat, one of the biggest beneficiaries of Saddam's oil vouchers and one of the most vocal supporters of the Saddam regime in its heyday. Al-Nabulsi expresses his astonishment at the relationship between an Islamist who advocates an Islamic state run according to Shari'a law and the secular regime of Saddam which despised the clerics and killed and tortured many of them.⁵¹

Jubran Tweiny, the editor of the Lebanese daily *Al-Nahar*, wrote: "Once again, the country [Lebanon] and the citizens pay for the involvement of some officials in financial scandals and money laundering and oil 'vouchers,' the payment of bribes ... without the authorities trying to put an end to them.

"It is incumbent on the state to respond clearly and forcefully to the sources of the news and prove the innocence of all those who were accused of receiving money from Saddam or smuggled money from the former Iraqi regime against commission."⁵²

In the Kuwaiti daily *Al-Siyassa*, in an article titled "The Barrels of the Ba'ath," **Daoud Al-Basri** writes that the voucher scandal was not so much about the millions of barrels of oil given to "the militants and their

international partners" as "a scandal for the international and Arab conscience and the environment of silence and deceit which accompanied all the stages of bribing..." He continued: "We will not forget the bribing of those who forged contemporary Iraqi history and those who made Saddam the anticipated Messiah of the Ba'ath."⁵³

Al-Sharq Al-Awsat columnist **Samir Attallah** wrote in 'The Mother of [All] Vouchers:' "[What is really repulsive] is the language of the total purchase [of supporters] or total hatred ... [the regime] needed people who hate what it hated and offended what it offended... What interests me about the vouchers and the Oil for Food [program] ... are the wailings of the former president displaying pictures of children dying from hunger and disease ... and the million and one stories about the poverty and neediness that transformed Iraq from a rich country to a country celebrating the birthday of a president who basks in his presidential palaces amidst poverty, silence, oppression, and the processions of the dead."⁵⁴

Pro-Saddam Al-Quds Al-Arabi: The List is Only Alleged; Kill the Messenger

In the *pro-Saddam* London daily *Al-Quds Al-Arabi*, the paper's Baghdad correspondent writes about "the alleged oil list:"

"The publication of the list by the newspaper *Al-Mada* ... did not draw much attention in Iraq because Iraqis were already familiar with this fact. Many Iraqis and particularly those involved in the oil trade business...were aware that the regime was selling quantities of its oil to oil companies and individuals with which it was associated or had good relations to circumvent the UN sanctions which controlled Iraq for 13 years. The policy of the old regime was to support anyone who stood by it or was trying to export goods to Iraq outside the sanctions."⁵⁵

In another report from its correspondent in Amman, Jordan, *Al-Quds Al-Arabi* tried to divert attention towards the purported source of the list (according to him, this source was **Iraqi Governing Council member and Iraqi National Congress head Ahmad Chalabi**) and to smear him:

"The lighting of fire recently under the vouchers by the central figures of the Iraqi National Congress against Jordanian intellectuals and journalists is nothing new for the Jordanian government, or for the intellectuals themselves whom the new rulers of Iraq are trying to 'hit'."⁵⁶

Al-Jazeera: Faisal Al-Qassim's Hidden Pro-Saddam Agenda

Faisal al Qassim, host of the popular *Opposite Direction* program on Qatari *Al-Jazeera satellite television*, chose to attack, on his program devoted to the vouchers affair, not the beneficiaries but their critics. He said:

"Do these bribed, swindlers and the traders of homelands have the right to discuss honesty? Aren't the records of many of them blotted with bribes, swindling and fraud? How many millions did the previous Iraqi opposition receive from the Central Intelligence Agency?"

"Can those who sold Iraq wholesale to the occupier open the files of corruption and the purchase of consciences...? It is true that the deposed regime wasted millions to buy friends and supporters, but haven't the newcomers handed Iraqi oil in its entirety to the American occupier?"⁵⁷

On February 17, 2004, the London Arabic-language daily *Al-Hayat* published Iraqi intelligence documents released by the *Iraqi daily Al-Mu'tamar*, the organ of the Iraqi National Congress, linking Faisal Al-Qassim to Iraqi intelligence.⁵⁸

'They Must Be Published Morally'

Dr. Abd Al-Ghani Mahmoud, head of the international law department at Egypt's **Al-Azhar University**, provided a fitting epilogue to this affair. Dr. Mahmoud told the Egyptian weekly *Roz Al-Youssef*:

"Those who have the instruments to influence their peoples – intellectuals, politicians, political parties or institutions – have become in some of these countries propaganda mouthpieces for a corrupt dictatorial regime which has dragged the whole region into oblivion. This problem calls for a firm stand. Those who collected money from this regime, which destroyed its people with chemical weapons while enjoying a life of luxury in palaces during the sanctions, are partners in wronging the [Iraqi] people through their silence about the

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corruption... They must be punished morally by publishing their names and what they have received, so they will serve as an example for others."⁵⁹

¹ Nimrod Raphaeli is a Senior Analyst at MEMRI.

¹ See MEMRI Inquiry and Analysis No. 160, January 29, 2004, 'The Beneficiaries of Saddam's Oil Vouchers: The List of 270,' <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA16004>.

² *Al-Zaman* (Baghdad), January 26, 2004.

³ *Al-Sharq Al-Awsat* (London), January 26, 2004.

⁴ *Al-Mashreq* (Baghdad), January 30, 2004.

⁵ *Al-Siyassah* (Kuwait), February 4, 2004.

⁶ *Al-Hayat* (London), January 31, 2004.

⁷ *Al-Mada* (Baghdad), February 7, 2004.

⁸ A letter to the *Wall Street Journal*, February 18, 2004.

⁹ *Al-Hayat* (London) February 5, 2004.

¹⁰ *Al-Zaman* (Baghdad), February 12, 2004.

¹¹ *Al-Hayat* (London), January 30, 2004.

¹² *The Associated Press*, January 28, 2004.

¹³ *Al-Sharq Al-Awsat* (London), February 1, 2004.

¹⁴ *Calgary Sun* (Canada), February 1, 2004.

¹⁵ *Al-Qahira* (Egypt), February 3, 2004.

¹⁶ *Al-Ahram Al-Arabi* (Egypt), May 24, 2003.

¹⁷ Jamal Halaby, United Press International, January 28, 2004.

¹⁸ *Al-Zaman* (Baghdad), January 28, 2004.

¹⁹ *The New York Post*, January 28, 2004.

²⁰ *The Daily Telegraph* (London), January 28, 2004.

²¹ Intelligence Online, #435 of August 29, 2002.

²² *The Daily Telegraph* (London), January 28, 2004.

²³ *BBC*, January 29, 2004.

²⁴ Laksamana.Net (The Politics and Economics Portal), February 2, 2004.

²⁵ *ABC News*, January 29, 2004.

²⁶ *Al-Quds Al-Arabi* (London), January 28, 2004.

²⁷ *Al-Siyassah* (Kuwait), February 4, 2004.

²⁸ *Al-Anwar* (Lebanon), February 6, 2004.

²⁹ *Al-Sharq Al-Awsat* (London), January 26, 2004.

³⁰ *Al-Sharq Al-Awsat* (London), January 26, 2004.

³¹ *United Press International*, January 28, 2004.

³² *Al-Sharq Al-Awsat* (London), February 7, 2004.

³³ *Al-Qassim Al-Mushtarak* (Baghdad), February 11, 2004.

³⁴ *Al-Sharq Al-Awsat* (London), February 10, 2004.

³⁵ *Al-Nahar* (Lebanon), February 10, 2004.

³⁶ *Al-Siyassah* (Kuwait), February 4, 2004.

³⁷ *Al-Hayat* (London), January 30, 2004.

³⁸ *Al-Zaman* (Baghdad), February 11, 2004.

³⁹ *Al-Sharq* (Qatar), January 29, 2004.

⁴⁰ The email is dated February 2, 2004 and is in MEMRI's records.

⁴¹ *Sunday Times* (Zambia), January 30, 2004.

⁴² *ABC News*, January 29, 2004.

⁴³ *Al-Siyassah* (Kuwait), February 4, 2004.

⁴⁴ *Al-Sharq Al-Awsat* (London), January 26, 2004.

⁴⁵ *Al-Mada* (Iraq), January 25, 2004.

⁴⁶ *ABC World News Tonight*, January 29, 2004.

⁴⁷ <http://slate.msn.com/id/2071502>

⁴⁸ *Al-Hayat* (London), January 29, 2004.

⁴⁹ *Al-Sharq Al-Awsat* (London), January 31, 2004.

⁵⁰ *Al-Watan* (Qatar), February 2, 2004.

⁵¹ *Al-Siyassah* (Kuwait), February 4, 2004.

⁵² *Al-Nahar* (Lebanon), January 29, 2004.

⁵³ *Al-Siyassah* (Kuwait), February 4, 2004.

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⁵⁴ *Al-Sharq Al-Awsat* (London), February 6, 2004.

⁵⁵ *Al-Quds Al-Arabi* (London), January 28, 2004.

⁵⁶ *Al-Quds Al-Arabi* (London), January 28, 2004.

⁵⁷ *Al-Jazeera* (Qatar), February 3, 2004.

⁵⁸ *Al-Hayat* (London), February 17, 2004. The liberal Web site www.elaph.com published photocopies of the originals, February 15, 2004.

⁵⁹ *Roz Al-Youssef* (Egypt), January 31-February 6, 2004.

Mr. SHAYS. Thank you all very much.

Would you like to say anything?

Mr. RUPPERSBERGER. Just a comment that I think you all had excellent testimony and you all raised very good points and issues.

Mr. SHAYS. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Dr. Raphaeli, I'm looking at your testimony, and appended to that is a list I believe to be of the 200 odd, 270 individuals and entities who are beneficiaries of Hussein's oil vouchers, is that correct?

Dr. RAPHAELI. 269, to be precise.

Mr. OSE. OK.

Dr. RAPHAELI. It's attachment two.

Mr. OSE. Now, if I understand this, part one, The Saddam Oil Vouchers Affair, Part I, on page 2 of 17, like that. If I understand this, individuals or entities on this list would go to the Al Rashid Hotel and receive a voucher from persons unknown, and turn around and go to SOMO and get a contract?

Dr. RAPHAELI. Congressman, it was Saddam who would give the authorization for the voucher. There was a story from people who worked in his inner office that they could just tell by the expression on the face of the individual coming out of Saddam's office whether they got a voucher or not. When a person received a voucher, they would go to the Rashid Hotel and there would be dealers and commission agents, many from Qatar, who would buy the voucher and sell it to an oil company and the oil company would present it to SOMO to collect the oil.

Mr. OSE. Were the vouchers like bearer bonds?

Dr. RAPHAELI. It's a letter, basically I have seen at least two letters authorizing the supply of a certain number of oil to an individual signed by the heads of the office of Saddam Hussein.

Mr. OSE. Is an individual or entity that's to be allocated these barrels of oil, is it named in the letter?

Dr. RAPHAELI. There will be a name, to allocate 1 million or 5 million barrels to Mr. So and So. And that individual will take it to Rashid Hotel and collect his commission.

Mr. OSE. So he walks over to the Al Rashid, and let's say—

Dr. RAPHAELI. There will be people who specialize—

Mr. OSE. He walks up to Doug Ose and he says, Mr. Ose, I have a voucher here for 7 million barrels, what will you give me for it?

Dr. RAPHAELI. I mean, there are people who have knowledge of the recipients of the vouchers. I'm sure there was some network with Saddam Hussein's office and the dealers.

Mr. OSE. So the person buys the voucher from this person who came out of Saddam's office and walked across the street to the Al Rashid.

Dr. RAPHAELI. Yes.

Mr. OSE. Let's say I buy it from that person. I take that voucher, where do I go?

Dr. RAPHAELI. You go to, you usually sell it to an oil company, because the agent doesn't have the facility to carry the oil. It's the buyer, the ultimate buyer who has the responsibility—

Mr. OSE. The end user.

Dr. RAPHAELI [continuing]. To ship the oil from the oil terminal in Um Qasr to someone else. So the person would sell it to an oil company. A lot of these vouchers were sold to companies like Volero and——

Mr. OSE. Let me just walk through this. Somebody walks into Hussein's office, walks back out with a voucher. Walks over to the Al Rashid and sells the voucher to me. I'm a middleman. I'm going to turn around and sell the voucher to an oil company.

Dr. RAPHAELI. That's right.

Mr. OSE. Now, the voucher has somebody's name on it. That was your testimony a couple of minutes ago. The voucher that accompanied the person out of Saddam's office, it has a name of an individual or an entity on it, is that correct?

Dr. RAPHAELI. That's correct.

Mr. OSE. So then I end up buying it. I'm a middleman and I'm going to turn around and sell it. I buy a voucher that has somebody else's name on it, is that correct?

Dr. RAPHAELI. That's correct.

Mr. OSE. Then I turn around and transfer it to an oil company. Now, the oil company might be British Petroleum [BP]. How do they redeem a voucher in the name of some Iraqi?

Dr. RAPHAELI. Sir, you are using the thinking of a well organized legal system, as in the United States or a country where somebody would look at the name and see whether you are eligible to get the oil. In the case of Iraq, if the oil is given by Saddam, everybody is on the know. So the oil company takes it to SOMO, SOMO is part of the deal, SOMO delivers the oil without asking questions. They don't really see the name, if it's legally provided. This is all illegal.

Mr. OSE. So SOMO takes the voucher, I'm the middleman, I've sold it to BP, as an example, I'm not suggesting, I'm just saying it as an example, BP goes to SOMO and says here's my voucher, SOMO makes an allocation of oil, BP pulls its tanker up to the pier, they load the oil and BP wires the money to the U.N. account at BNP. Is that correct?

Dr. RAPHAELI. That's correct.

Mr. OSE. Why ever would companies, international in nature, subject to sanctions placed in effect by the United Nations, exercise vouchers in the name of, say, Abu Abbas? Why would they exercise vouchers in the name of the Popular Front for the Liberation of Palestine, an organization identified by our State Department as a terrorist organization? How could that happen?

Dr. RAPHAELI. Congressman, it happens because not all the buyers of the vouchers are international oil companies. Many of them are small traders who buy 1 million barrels and carry it to Rotterdam, sell it on the international market.

Mr. OSE. It's my understanding that the contracts for Oil-for-Food, for purchase of oil, had to be approved through the process by either the 661 Committee or the Security Council, is that correct?

Dr. RAPHAELI. It is correct that in, I believe 2001, the United Nations has authorized Iraq to determine the buyers of the oil. They didn't have to go through the United Nations. Iraq had the authority to establish the buyers.

Mr. OSE. It's your testimony that Abu Abbas in one case, or the Popular Front for the Liberation of Palestine in another, according to this document you have here, received financial compensation under the Oil-for-Food program?

Dr. RAPHAELI. That's right.

Mr. OSE. My time has expired, Mr. Chairman, but I hope we have another round.

Mr. SHAYS. You know, maybe I'll just give you a second here. I would like to ask a question of Dr. Luck, if I could, and do it that way. I am fascinated by the whole concept of unanimity rule in the Security Council. And would you explain to me, I mean, I knew that the Security Council, when it decides to go into Korea or go into Iraq, it takes everyone there. But is that a standard rule for every action within the Security Council?

Dr. LUCK. No, it isn't for the Council itself. But many of its subsidiary bodies, including all of the sanctions committees, operate by consensus. In other words, in something like the 661 Committee, in theory, each of the 15 members has a veto, while normally in the Security Council, obviously only the permanent 5 have vetoes. So this is one of the reasons why sanctions committees generally have rather mixed, at best, reputations. It depends a lot on who the chairperson of that individual committee is.

For example, with this 661 Committee, I would recommend to you an account by Peter Van Walsum, who was the Netherlands permanent representative to the U.N. and chairman of the 661 Committee in 1999 and 2000. He goes on at some length, with considerable concern, about how some of the member states were treating the Oil-for-Food program and the sanctions regime, and particularly he was frustrated obviously by the French and the Russians and the Chinese and their lack of enthusiasm for pursuing these various things.

But generally, the chairperson will have that for a 2-year term, because non-permanent members, of the Security Council are there for 2 year terms.

Mr. SHAYS. When I was in Jordan one time when King Hussein was still living, one of his nephews who was in charge of security told—he was describing the dialog that took place with Saddam's son-in-laws who were in Jordan. It was pretty brutal dialog. They were basically both boasting who had killed more people.

In that same discussion, he said, you Americans don't understand, in your society when times are bad, you turn against your leaders. In our society, when times are bad, we turn to our leaders. He was basically speaking of how we had in a sense empowered Saddam in the course of trying to isolate him. And I say that because I was thinking that, during the first few years after we had gotten him out of Kuwait, I had constituents who would come to me and were just horrified at the death and destruction that was taking place with the civilian population. Saddam was very willing to have that happen.

So what then happened was, we put in place this humanitarian program, and frankly, the opposition to the sanctions disappeared. And in a sense, we're all kind of a part of this, because he really had us over a barrel. I mean, given that he was willing to just have his people die and clearly not have any conscience about it.

So I'm saying that I have a little bit of sympathy for this mess. I would like Dr. Gardiner, I was thinking, each of you have come with different strengths to this meeting and that is why we invited you. I think, Dr. Gardiner, you were one of the first to ask for hearings. So we thank you for that. Ms. Rosett, you had been writing periodically as you got into this issue. Dr. Luck, we were looking at you in some cases because we couldn't find anyone who quite frankly wanted to defend the U.N.

Dr. LUCK. Did you find one? [Laughter.]

Mr. SHAYS. No. Even you weren't it. But what you did do, which I really commend you for, you came in with some very real suggestions of things that could happen differently. One of the things I think our committee is going to do is try to really move forward with suggestions of what needs to happen. It does strike me though, it is, we have this incredible challenge. Dr. Raphaeli, we just uppercut you going through these different ways that the abuses occurred. So I thank all of you for your participation and would welcome any comment you would like to make based on what your colleagues in this panel have said.

Dr. LUCK. If I may make one comment, I think a lot more research and study has to be done about the motivations of various Security Council members. Yes, there seems to be a financial interest that some of them had. But were those financial interests so controlling that China or Russia or France took the positions they have in the Security Council vis-a-vis Iraq? It may be part of an explanation, but I have a feeling it's not the whole explanation.

Most member states, not just those three, and those that had nothing to do with financial advantages from Iraq, were very negative on the sanctions regime, very eager to get something in place that looked like it would be doing something about the humanitarian issues. And I think we have to remember, there are a lot of geopolitical issues here, a lot of strategic issues, a lot of questions about the United States itself and its policies in the area that help to explain why other countries took the positions that they did.

And I think if we try to say, gee, it's simply these contracts, these individuals, that explain everything, I think we really won't get to the final answer. Because I think the French, the Russians, the Chinese all had an interest in trying to counterbalance United States and U.K. influence in the region. And they all had interests in Saddam Hussein, some of which may have been lucrative contracts, but some may have been geopolitical in nature as well, in terms of their keeping a foothold in a region in which they felt the United States was becoming dominant.

So I don't think we should be too simplistic about this, and we should recognize that the Security Council is the most political body that I can think of. We keep asking: why don't they act in what we would call more rational ways, etc? We have to realize that a lot of political calculation is going on, a lot of tradeoffs, a lot of compromises, and very often the result is very ugly. And this is one of the ugliest that I've seen.

Mr. SHAYS. I would love an explanation of why the United States would be the largest consumer of Iraqi oil. I don't understand quite, oil is oil. Why did we need to get 44 percent of the oil that Iraq exported? Why did it need to come to the United States?

Dr. RAPHAELI. Mr. Chairman, Iraqi oil from Basra, southern Iraq, is considered one of the best oils in terms of, it's a light crude.

Mr. SHAYS. You're speaking as a former Iraqi?

Dr. RAPHAELI. Yes.

Mr. SHAYS. As an Iraqi-American?

Dr. RAPHAELI. Yes, I grew up by the oil wells. The Iraqi oil, indeed, and my son-in-law is an oil engineer and I talk to him, about the various oil questions, the refineries in this country are built around certain viscosities of oil.

Mr. SHAYS. Yes.

Dr. RAPHAELI. The refineries in California are suitable for the Iraqi oil, or the Iraqi oil is suitable for California refineries. Therefore there was a big demand for Iraqi oil, because of its quality. That's why the United States was impelled to buy it. And in any case, once the oil leaves the port, it is—anybody can buy it.

Mr. SHAYS. I know, but it's just curious to me that there's a part of me that thinks, why would we—I mean, I understand the quality and all that. But you get a sense of what I mean. Just politically, it strikes me as kind of a curious thing, that we would want to be the largest consumer of Iraqi oil.

Dr. RAPHAELI. Well, for most oil companies, oil has no color.

Mr. SHAYS. Yes. And yet we wanted that oil. If that were the case, why weren't we just consuming—

Dr. RAPHAELI. Well, it's a moral question. I can't really answer it.

Mr. SHAYS. And it probably is a meaningless question to answer. But it's still curious to me.

Yes, Dr. Gardiner.

Dr. GARDINER. I have a couple of points to make on the record. I think first, it's imperative for Congress and also the Bush administration to maintain the pressure on Kofi Annan and upon the U.N. Secretaries and the Security Council to ensure that the commission of inquiry which has just been launched is effective and has real—

Mr. SHAYS. Let me just say, it was launched today with a resolution.

Dr. GARDINER. Yes. I haven't actually seen the wording of the resolution, but I think it's imperative that the United States and key allies like Great Britain, for example, maintain a close watch over this inquiry to ensure that it gets the job done. There are many on the Security Council who will certainly try their best to weaken this inquiry. And so we're facing a major battle ahead in the coming months. But it's imperative for the Bush administration, also for Congress as well, to keep the pressure there.

Second, I believe that the United States should be thinking very carefully about the Brahemi proposal for the hand-over of power in Iraq on June 30th, the suggestion that the United Nations should in effect hand pick the Iraqi interim government post-June 30th. I think that not enough attention has really been paid to the detail here. The United States is in effect ceding political power to the United Nations. It's a dramatic reversal of policy for the Bush administration.

And in light of the U.N.'s handling of the Oil-for-Food issue and the fact that the U.N. Security Council refused to back the move

to remove Saddam Hussein from power, the United States needs to think very, very carefully before agreeing to the proposals of the U.N. envoy to Iraq, and just take a step back, think long and hard before agreeing to what is a very, very controversial proposal with huge implications for the future of the Iraqi people.

Mr. SHAYS. Thank you. Go ahead, Ms. Rosett.

Ms. ROSETT. Thank you. I think Mr. Gardiner has it exactly right, and to have the U.N. go in there, as compromised as it may well be, would be disastrous, especially if—one of the huge flaws here has not been remedied, and that is the secrecy. The U.N. is entirely un-transparent. I wondered if I should bring along my notes from over almost 2 years to find out the simplest things from them, things that any democratic government would routinely disclose and they do not. Again, there is no justification.

If I could just suggest to you two things, two large chunks of information that would be useful to have in the public domain from an official source. People had to piece things together.

But again, the U.N. defends itself by making it impossible to get to material that should be publicly available. One is simply the amounts that went to individual businesses, basically the contracts, the amounts that went to the businesses in the countries that we're discussing. Everybody talks about, what did France do, Russia, this do, that do. At this point, there is every reason for the Iraqis to be able to see what it was, for people to be able to make informed judgments about who did business with Saddam Hussein, especially in light of the kickbacks.

It's just vital. And I think every effort should be made to have that brought out. If it has to come from the U.S. mission, it should. This administration would be remiss in not doing everything it could to get that out. Not only that, you should go to other governments. The British Government should release this. The French Government, which has called for transparency in this investigation, should release this.

P.S., I notice in the French Ambassador's letter included here he mentions that it was only the United States and the U.K. who were overseeing things. Well, France chaired the board of auditors in 2003 and was on the board of auditors in 2002. That's the trio of revolving countries that was supposed to be auditing this program.

So the French Ambassador may believe it was only the responsibility of the United States and U.K. That calls into interesting question the board of auditors. The further you go into this, the more you will find. But the contracts should be released. And the total amounts that went to each country should be added up from an official source. We should be able to discuss how much, who got what. And while it may be right that there were also other ideas and philosophies, and other politics involved, I don't think a debate is useful without—I mean, you do the numbers. The amounts were so large that it matters.

Mr. SHAYS. Thank you very much. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. I was listening to Ms. Rosett and trying to recall where have I seen this woman's name, and I got it, being a regular reader of the Wall Street Journal.

Ms. ROSETT. I was with them for 17 years. At this point I'm not.

Mr. OSE. I understand that, but I just had to file it away here. I want to go back to something you were testifying about earlier, and that was, the money that was in the program, 72 percent went to fund food for the Iraqi people, 25 percent went for reparations to Kuwait, and there was 3 percent left over for the administration of the program. And your comments earlier were focused on \$2 billion.

And you said something very interesting, I thought, was that for 4 years, there were no inspections for weapons of mass destruction. And yet within that \$2 billion piece of the overall total, \$500 million of that was supposed to be used, or a quarter of it was supposed to be used to fund the inspections for weapons of mass destruction. What happened to that \$500 million since then? And I took that to mean that there has been no accounting by the U.N. for the \$2 billion or \$3 billion or \$3.3 billion or whatever the number is.

Ms. ROSETT. One point nine by my arithmetic.

Mr. OSE. Well, it's 3 percent of \$111 billion.

Ms. ROSETT. No, \$111 billion is the total oil sales plus the total humanitarian contracts. Drop out of that the compensation commission. So it's using Annan's figures, because they vary.

Mr. OSE. \$63 billion.

Ms. ROSETT. \$65 plus \$46 and then 2.2 percent and you get—it's about \$1.9 billion.

Mr. OSE. Your point is that separate and apart from this larger issue, why don't we figure out what happened to this money. Now, the previous witness submitted questions to the U.N. and he responded that they told him, provide us the evidence, which I took to mean, at least in my part of the country, is basically being told to pound sand.

Ms. ROSETT. They had the evidence. He wasn't allowed access to it. That was the terrible hypocrisy of that.

Mr. OSE. How do we get access to it?

Ms. ROSETT. I think you have to—well, I'll tell you how. I only see one way. Shame in this thing does not seem to work greatly. Congress appropriates U.N. funding. That's about the only way I can see.

Mr. OSE. Could you elaborate on that? Sometimes I like to play stupid.

Ms. ROSETT. You supply their budget. As long as the Oil-for-Food, in fact, that was an enormous, you would have to look at the total amount of money that flowed to them, I mean, if they collected \$1.9 billion in commissions for running this, that was over 7 years. But that would have made, the core budget of the United Nations, figures vary, depends what you count in there.

But this was easily the biggest item on Mr. Annan's budget. It was easily the biggest thing in any one of the nine agencies of the U.N. that were involved in this program. It was a major addition to everything that the U.N. was doing. They had something, an average of \$15 billion worth of business flowing through that program, on which they were collecting money on the oil commissions, they had enormous clout, basically. They were involved in commercial oil business.

Mr. OSE. They did not collect commissions on the food side of the equation?

Ms. ROSETT. No, they did not. But the oil commissions alone, and when you ask, well, I have been asking what happened to, say, the money for UNSCOM and UNMOVIC. I called the controller, Jean-Pierre Holvat, again last week. I periodically asked for this. I was told he would send me an accounting. What came through by fax, and it was more than one usually gets, was a one page sheet through the year 2001, which would leave you shy about \$300 million.

Mr. OSE. Would you care to submit that fax for the record?

Ms. ROSETT. Yes, I would be happy to. It's all I've been able to get. If you can get more, you should.

Mr. OSE. Mr. Chairman, \$100 billion is a large number. It would seem to me that we can't even get this little kernel of the whole, which speaks directly to the ability of the U.N. to control its own finances. We're not talking about money transactions between third parties. We're talking about basically their surcharge that the UN collected for administering the program. If they cannot produce an accurate record of what they did with that money, as many of our witnesses have testified, we have a significant problem.

Mr. SHAYS. Do you mean what they did with the money or what they did for the money?

Mr. OSE. What they did with the money. For instance, did they have 15 employees in this department for this period of time? Well, 15 employees for \$1.9 billion over 7 years, that's pretty good pay, if you get my point.

The reason this is important is that we have any number of countries, Cuba comes to mind, where we're willing to trade medicine and food, but not many other things. Are we replaying this over and over and over in these other instances, under the auspices of the U.N.? We're scratching the surface here, and there are big numbers.

But it's not just Iraq for which we should be concerned.

Mr. SHAYS. My reaction is that, and Dr. Luck, I see you want recognition, that you all have pointed out the problems at the U.N. Dr. Luck, you have illustrated to me by your recommendations what some of the problems are in a very specific way, which is very helpful.

Dr. LUCK. If I could comment just very briefly on this exchange, one should remember in terms of financial withholdings as a way to get leverage over the United Nations, that the United States in this period had arrears to the United Nations, depending on one's accounting, somewhere between \$1 billion and \$2 billion that we had not paid, both for peacekeeping and for regular assessments. So this was a period when the U.S. presumably had a great deal of financial leverage, and yet it obviously didn't work out that way.

Second of all, I think her points are well taken, that one needs to followup about the accounting of how these various pieces of money were used. But I wouldn't denigrate the accomplishments of UNSCOM, which existed until the end of 1998, so for the first 2 years of this program. UNSCOM destroyed more Iraqi weapons of mass destruction than we did in all of Desert Storm. It was very significant. That's one of the reasons why Saddam doesn't seem to

have the weapons any more, because UNSCOM did effectively destroy them.

Then there was a period, as she points out, where UNSCOM was in abeyance, and before they put UNMOVIC in, which is part of that Resolution 1284 that the Russians, the Chinese and the French all abstained on, creation of the new inspections regime. So one has to look at the finances. But I must say, whatever money was put into UNSCOM was very well invested. It seems to me that was very important.

Mr. OSE. If that's the case, they should be happy to provide us the information.

Dr. LUCK. Yes, they should. Obviously I completely agree with that. I would argue, as everyone else has, for transparency. But I'm not sure, when one talks about all this money coming into the U.N. system, presumably the money was for the OIP, the Office of Iraq Programmes. Now, if that flowed into other things in New York, that's quite a different matter. And one has to look at that very seriously.

So obviously the Office for Iraq Programmes had a reason to lobby for its extension and was benefiting from this arrangement. But one of the reasons why they had to pay for this out of Iraqi oil revenues is because member states didn't want to pay for this sort of thing, including very prominently the United States. So these kinds of odd mechanisms are created in a lot of areas in the U.N. to fund things. And then we sit back and say, now, wait a minute, why didn't they do it under regularly assessed contributions? But we did not want to pay those contributions, and were \$1 billion or \$2 billion in arrears at that point.

So I think there's a little bit of a circular—

Mr. OSE. Ms. Rosett suggests using the appropriations process as a lever to get the information out of the U.N. I did not see any suggestions in your recommendations, which I did read and I thought were appropriate, for how to get that information. Do you have any suggestions for how we might obtain that information?

Dr. LUCK. No, I mean, it seems to me that we should insist that the new panel, the Volcker panel, go after that kind of information. And it's interesting, this morning the Security Council did unanimously support this with this resolution. As of Friday, the Russians were saying no way. And supposedly, according to newspaper accounts, the Secretary General called Sarge Lauvou, the new Russian foreign minister, who used to be a Russian Permanent Representative to the United Nations, over the weekend and pushed them.

Mr. SHAYS. That's an accurate statement, because he basically made that point to me, that he had been able to convince the Russians this was important to do.

Dr. LUCK. The fact that the Russians and some of the others last week, the Chinese and French weren't eager either, were reluctant to see this resolution go forward, suggests to me that they felt this actually was going to be a serious investigation. Therefore, they were not so keen on it. I just hope that now they've all signed on to it, and we really do keep up the pressure and try to keep these answers coming.

Mr. SHAYS. Let me do this, if I could. We're going to try to allow all of you to get on your way, and our friend from Great Britain to be able to go back home. So I just would ask, is there any closing comment that any of you would like to make before we adjourn this panel?

Dr. RAPHAELI. Mr. Chairman, I think the question of U.N. overheads, which they collected for managing the Oil-for-Food program, should be looked at also from the point of view of the money channeled through the U.N. specialized agencies. It's my understanding, as we read now in Iraqi papers, that many of these agencies, particularly United Nations food programs and FAO have purchased food for Iraq of poor quality and they collected a large amount of overhead.

So how much money of the U.N. went to the specialized agencies, it's a separate issue which may be looked upon as part of the process.

Mr. SHAYS. Thank you. Dr. Gardiner, are we all set?

Dr. GARDINER. Just one final point. I would just like to reiterate the point that we need to bring to justice those who cooperated to help keep Saddam Hussein in power. I think this would also send a very clear message to U.N. officials that there are penalties to be paid for corruption. I think the idea of having a trial in Iraq, for example, would probably cut the level of U.N. corruption down by 90 percent. And I think it has an important long term message for helping to clean up an institution which does a lot of good, but which is tarnished by the actions of a small minority.

Mr. SHAYS. Thank you. Ms. Rosett, all set?

Ms. ROSETT. Just one comment. There's been a great deal of focus on the Al-Mada list. It was a small part. True or not, it's interesting, it was certainly important if the head of the program was on the take.

But it is dwarfed by the size of the program. And again——

Mr. SHAYS. The list is much, much, much bigger.

Ms. ROSETT. No, no, I mean that the size of this program over the 6 years and whatever, 11 months, was enormous.

Mr. SHAYS. That's what I'm saying, the list would be a lot bigger.

Ms. ROSETT. Yes, exactly. And my suggestion is, the more than can be made public about the contracts, the amounts, the individuals, the names, who got what where, the more you would also enlist the help of the world community, the one the United Nations is supposed to be serving, in actually figuring out what happened. Because this was a network, just immense.

Mr. SHAYS. Thank you. You got the closing word.

Dr. LUCK. Two very quick points. One, we should remember that the OIP, the U.N. did bring to the 661 Committee concerns about this in November 2000, and if they were simply in the business of trying to get their own side payments, why would they have brought it to the member states? At that point, it was a failure of the member states. And I think we have to recognize that first and foremost.

Second of all, on some of the questions about why don't we have this, why don't we have that: if the United States itself was not so ambivalent about this, I think we might have a lot of this. But the United States obviously, and the U.K. put their first priority, and

it's hard to argue against it, on the question of weapons of mass destruction, and saw this primarily as a vehicle to try to prevent strategic items from getting into Iraq. That was the U.S. emphasis throughout.

So now instead of trying to reinvent the politics, I think we should first look at home, at why we did make this the overriding priority and looked aside at many of these other kinds of issues. Because if we had pushed hard enough with the U.K., then we could have moved this quite a ways. But we understandably had other national interests. And I think we need to——

Mr. SHAYS. And I'll just describe one. When I was in Turkey a few years ago, the Turks were, and I was discussing the advisability and possibility of our going into Iraq. Rather than a red light, there was a yellow light. But at the same time, they tried to point out to us what has happened since we had forced him out, since he went into Kuwait and since we forced him out. This suffering economically that they encountered from a lack of trade with Iraq, a lack of tourism and so on, to the tunes of billions of dollars.

I think intuitively, maybe not intuitively, but our country accepted that a little illegal activity between the Turks and the Iraqis and between the Jordanians and the Iraqis was somewhat of a just compensation for their significant loss of trade and so on during this time. I just intuitively know that, in fact, I know it first hand. So it isn't as clean as we would like it to be.

I guess I got the last word, sorry. But you triggered it, sir.

I would like to thank all of you very much for your patience all day. It's been a long day, and it's been very helpful, and thank you for all your good work on this. You've been working on this a long time. We are kind of Johnny-come-latelies on this issue. But we're going to stick with it. Thank you. I have excellent staff and they've done good work as well, and I would thank them so much.

We're going to adjourn this panel, and we're going to ask Mr. Claude Hanks-Drielsma to come back up for just a little bit longer, and thank you for waiting, sir.

I don't think this needs to take too much longer, but it would be nice to conclude. Dr. Luck, thank you for waiting longer and not leaving. That was very nice of you.

You are still a sworn-in witness. I don't know what it means when someone's a citizen from Great Britain and they're sworn in. It must carry even more weight. [Laughter.]

Please be seated, and we're going to have Mr. Ruppertsberger——

Mr. RUPPERSBERGER. Thank you, Mr. Chairman.

Mr. Claude Hanks-Drielsma, is that correct?

Mr. HANKES-DRIELSMA. Yes.

Mr. RUPPERSBERGER. OK. First, I want to thank you for staying. It seems to me you, through your client, have a lot of information that would hopefully get to the bottom of where we want to be with respect to these really broad, very damaging allegations that if true, would have an impact on credibility throughout the world. So we have to move as quickly as possible.

You made a comment about how you were concerned right now that there could be people shredding evidence, which normally happens in an investigation and cover up and things of that nature. I want to refer you, and you might have read it because your name

is in it, to an article in Reuters, March 16th, where you were quoted in this article. Basically it says, Claude Hanks-Drielsma, a British businessman and long-time acquaintance of Chalabi, who advises the Governing Council, said, Iraqis keep detailed records of every illegitimate move. The paper trail is second to none, said Hanks-Drielsma, a former executive of Price Waterhouse, in an interview. Did you make that statement?

Mr. HANKES-DRIELSMA. Not exactly as it's written. I said that the Iraqi government officials and ministries keep meticulous records. I did not say illegal transactions or illegal records, you used the word illegal. They keep detailed records.

Mr. RUPPERSBERGER. OK, well, basically what they're saying, and I want to ask you then, the paper trail is second to none, as far as the detailed records of illegitimate moves or whatever. Do you feel that there are records that are out there that would be extremely relevant, damaging and would help in any investigation to get to the bottom line of this issue?

Mr. HANKES-DRIELSMA. The records do not necessarily differentiate between those that are legal or illegal. But the records certainly, in my view, will provide very, very detailed and damaging—

Mr. RUPPERSBERGER. OK, well, furthermore, you were quoted, and I want to ask you about this quote, because most of us in this business are always misquoted, or we don't have the chance to counter what was said. "It will not come as a surprise if the Oil-for-Food program turns out to have been one of the world's most disgraceful scams, an example of inadequate control, responsibility and transparency." You wrote in a letter to Annan asking that all documents be preserved. Is that correct?

Mr. HANKES-DRIELSMA. Correct.

Mr. RUPPERSBERGER. OK. Finally, I have two more and then I'll get to my question. However, no papers documenting the charges have been given to the United Nations. Is that correct?

Mr. HANKES-DRIELSMA. I did not make that—

Mr. RUPPERSBERGER. Well, I want to get—OK. No, that's not your quote, but that's a statement. However, no papers documenting the charges have been given to the United Nations. Is that true, that no papers documenting the allegations that you've made today have been given to the United Nations?

Mr. HANKES-DRIELSMA. No, that's not true.

Mr. RUPPERSBERGER. All right, well, I want to get into that. Let me finish this and we'll get into that. And then the accounting firm KPMG was preparing a report the world body would receive, and that's true.

Mr. HANKES-DRIELSMA. Yes.

Mr. RUPPERSBERGER. OK. In January, an Iraqi newspaper published a list of 270 groups and individuals, many of them past and present government officials, charging they received vouchers for oil they could sell. Hanks-Drielsma calls the list "only the tip of the iceberg." Is that true?

Mr. HANKES-DRIELSMA. Correct.

Mr. RUPPERSBERGER. OK. Is there anything, and let me start from the back and go forward, is there anything that you haven't

testified so far today that would add to your comment that this is only the tip of the iceberg?

Mr. HANKES-DRIELSMA. No.

Mr. RUPPERSBERGER. So you've really, most of what you've given us today is where you would stand and you don't have any additional information that would help in the hard evidence to try to prove or disprove these allegations?

Mr. HANKES-DRIELSMA. At this stage, we have to wait for the KPMG report. The list is certainly only part of the problem. We're talking about 10 percent added to invoices, so a complete list needs to be produced of all suppliers. KPMG is looking at all illegal oil sales and what happened to that cash. KPMG had already secured a list of all the Iraqi accounts held in the name of individuals on behalf of Iraq. KPMG, with the audit bureau of Iraq, will be requesting the banks to provide 5 year records of all transactions on those accounts.

So the work that needs to be done is very extensive. So that list that the media has focused on is only part of the big picture.

Mr. RUPPERSBERGER. Who has retained KPMG or who is paying them right now?

Mr. HANKES-DRIELSMA. The appointment by KPMG is being made by the Iraqi Governing Council. It was actually done by the finance committee, with the CPA present.

Mr. RUPPERSBERGER. And who is president of the finance committee?

Mr. HANKES-DRIELSMA. Dr. Chalabi.

Mr. RUPPERSBERGER. Is he in charge of that investigation on behalf of the Iraqi Governing Council now?

Mr. HANKES-DRIELSMA. He and his colleagues on the finance committee.

Mr. RUPPERSBERGER. Yes, but there's one chairman just like we have a chairman here. So his duty is he's in charge and he's conducting this investigation as it relates to what we've talked about here today, and right now, the Iraqi Governing Council is paying KPMG to conduct this investigation.

Mr. HANKES-DRIELSMA. No. First of all, as I testified earlier, the Governing Council unanimously endorsed the decision to appoint KPMG. But at this stage, although initial indications, assurances were given by Ambassador Bremer that the Iraq Development Fund would pay for the work, this has not been reconfirmed by the CPA. The Governing Council certainly doesn't have, at this stage, any resources to pay KPMG, because all the Iraqi money is in the Iraq Development Fund, over which Ambassador Bremer has sole signing authority.

Mr. RUPPERSBERGER. But basically the Iraqi Governing Council retained or——

Mr. HANKES-DRIELSMA. Retains KPMG.

Mr. RUPPERSBERGER. Retains KPMG to do the work they're doing to investigate the alleged corruption that has been put out here today.

Mr. HANKES-DRIELSMA. Right.

Mr. RUPPERSBERGER. Now, the only issue now is that the Iraqi Governing Council, through Chalabi, is trying to get Bremer to be able to pay for this. Is that correct?

Mr. HANKES-DRIELSMA. Correct.

Mr. RUPPERSBERGER. OK. And Bremer is leaving now, correct, in 2 months?

Mr. HANKES-DRIELSMA. You'll know more about that than I.

Mr. RUPPERSBERGER. Do you know who is taking his place?

Mr. HANKES-DRIELSMA. I know who's going to be the Ambassador.

Mr. RUPPERSBERGER. Who is that?

Mr. HANKES-DRIELSMA. I understand from the media that it's Ambassador Negroponte.

Mr. RUPPERSBERGER. Yes, but isn't Negroponte also on the investigation committee appointed by Annan which is Volcker and Annan?

Mr. HANKES-DRIELSMA. No.

Mr. RUPPERSBERGER. He's not? OK. And by the way, I want to say about the appointment of Volcker on that committee, I'm very impressed with the credibility of Volcker. He's a tough individual who will get to the bottom, if he's given the resources and the ability to get the facts and data that are needed. Do you agree with that?

Mr. HANKES-DRIELSMA. I agree with that.

Mr. RUPPERSBERGER. OK. So I think we clear up, as far as where KPMG is. Suppose Bremer won't pay them. What's going to happen then?

Mr. HANKES-DRIELSMA. Well, if the CPA refuses to pay for this, I think it would be a very sad day for the Iraqi people.

Mr. SHAYS. I would agree.

Mr. RUPPERSBERGER. And I would agree, too.

The final issue, I just want to ask you the question, you talk about KPMG. The issue with respect to the information that KPMG has developed right now, I'm very much concerned that we're waiting, the United Nations is waiting for something, when in fact, there could be crimes and cover-ups going on at this point. It is going to have a tremendous impact, in my opinion, on world media. I think this is something that we have to deal with right away and move as quickly as we can.

What is the holdup with respect to KPMG or you or any information the Iraqi Governing Council has to getting it to the authorities immediately, right now, and why wait or hold back, when you yourself said today you're concerned about shredding of documents?

Mr. HANKES-DRIELSMA. Because an investigation needs to be thoroughly done. The documents, there needs to be forensic work done on them. And the information, some of the transactions need to be traced, ultimate beneficiaries need to be identified. If you produce a document that is half-baked, you will end up being criticized for precisely the reasons that we want to try and avoid, that this needs to be done professionally and properly.

Mr. RUPPERSBERGER. But my point is that Volcker is out there investigating, you're going to communicate with him, it seems to me that KPMG and any information that they have or you have should be brought to the table with Volcker and move as quickly as possible. Why isn't that being done?

Mr. HANKES-DRIELSMA. Well, you're prejudging what might happen. We haven't had a discussion with Mr. Volcker. We suggested

the meeting with Mr. Volcker. It was not at the request, at this stage, of Mr. Volcker, although the U.N. has suggested it, the internal IOS has. We suggested the first opportunity for us and Mr. Bates is flying over specially tonight from the U.K. to actually be present at that meeting so we can discuss——

Mr. RUPPERSBERGER. When is that meeting?

Mr. HANKES-DRIELSMA. Tomorrow morning.

Mr. RUPPERSBERGER. That's very good. Tomorrow morning with Mr. Volcker and the other gentleman.

Mr. HANKES-DRIELSMA. I don't know who else Mr. Volcker will include.

Mr. RUPPERSBERGER. OK, and at that point, you, representing the Iraqi Governing Council, are you willing to put forth any hard evidence, documents, whatever, that you have, that will help Mr. Volcker in his investigation of this serious matter?

Mr. HANKES-DRIELSMA. As the formal letter from the Governing Council has already stated to Mr. Kofi Annan, that we will cooperate and Iraq will cooperate fully with the United Nations, and we hope that the U.N. will also make all the information that the Governing Council and the information that they've requested is part of my evidence is made available to the Iraqis, so they can see for themselves.

Mr. RUPPERSBERGER. OK, thank you.

Mr. SHAYS. Mr. Ose. This is good practice for you tomorrow for when you meet Mr. Volcker, because Mr. Volcker will really have questions.

Mr. OSE. Thank you, Mr. Chairman. I'm going to take that as a compliment. [Laughter.]

Mr. RUPPERSBERGER. That was against me. [Laughter.]

Mr. OSE. I just want to make sure we get it for the record. We've had a lot of comments about why isn't this happening, why isn't that happening, and if I understand correctly, Volcker's authority was vested in him this morning and he's having his first meeting tomorrow. Is that your understanding, too?

Mr. HANKES-DRIELSMA. I don't know whether he's had any meetings this afternoon, but we're having a meeting with him tomorrow morning.

Mr. OSE. I want to go back to your second letter to the Secretary General. We didn't quite get through all that. When last we left it, we were talking about why the transactions for oil were priced in dollars, converted into Euros and then converted back to dollars. And I believe your statement, or your response to my question as to why that was happening was you didn't know either. That's not what your statement was?

Mr. HANKES-DRIELSMA. No, that was my statement.

Mr. OSE. That was your statement. You make a comment about three additional banks, Jordan National Bank, the Arab Bank and Housing Bank. I presume you make those references because some portion of the Oil-for-Food money or the letters of credit either originated or were redeemed there?

Mr. HANKES-DRIELSMA. The reason I made that statement is as follows. First of all, there are still very significant amounts of money in those Jordanian banks, which ought to have been transferred to the Iraq Development Fund.

Mr. OSE. When you say ought to be, on what basis do you make that suggestion?

Mr. HANKES-DRIELSMA. Because as the U.N. resolution called for all funds still to be held, Iraqi funds still to be held under the Oil-for-Food program to be transferred to the Iraq Development Fund.

Mr. OSE. You've come to the conclusion that there are funds in these three Jordanian banking institutions that are attributable to transactions that occurred under the auspices of the Oil-for-Food program?

Mr. HANKES-DRIELSMA. I do. And worse, the Jordanian banks are still taking moneys out of those accounts, possible claims against Iraq, we don't know. And when the minister of finance and the Governor of the central bank asked for details of why \$20 million, \$30 million was withdrawn from these accounts, they received no answer.

Mr. OSE. Do you have any information as to the amount of money in the aggregate held in these three Jordanian banking institutions?

Mr. HANKES-DRIELSMA. It's probably in the region of several hundred million.

Mr. OSE. It's my understanding that there are commercial claims in Jordan amounting to around \$900 million against Iraq, or Iraq businesses. Is that accurate also?

Mr. HANKES-DRIELSMA. I don't know what the amount is.

Mr. OSE. So it may be possible that the Jordanian authorities froze the accounts, the purpose of which was to protect domestic businesses in the event of claims?

Mr. HANKES-DRIELSMA. Anything is possible.

Mr. OSE. OK. Now, has the Governing Council been able to establish what money flowed into those accounts and where it came from?

Mr. HANKES-DRIELSMA. Yes. The records show that.

Mr. OSE. For example transaction flowed by wire to a certain bank and was deposited in account number so and so. This transaction, is it an all inclusive list? Do you have records for all the transactions?

Mr. HANKES-DRIELSMA. The records for all the transactions.

Mr. OSE. And it's several hundred million dollars in the aggregate?

Mr. HANKES-DRIELSMA. Yes.

Mr. OSE. You're saying those banks still hold those funds. Are those banks paying interest on those funds?

Mr. HANKES-DRIELSMA. I don't know the answer to that. Iraqis find it almost impossible—they're not getting any—there's no transparency.

Mr. OSE. These were questions that you asked of Mr. Hans Corell. His response to you has been, for instance, when you asked him in the context of these, there were questions such as whether these banks still holding funds, and if so, how much, why and how is this monitored. What has Mr. Corell told you?

Mr. HANKES-DRIELSMA. In response to that complete letter, it was, show us the evidence.

Mr. OSE. Show us the evidence that the money is in the banks?

Mr. HANKES-DRIELSMA. That must be one of them.

Mr. OSE. Did he make that statement to you in writing?

Mr. HANKES-DRIELSMA. I had a letter from the Under Secretary—no, the person in charge for communications, I think, requesting, saying, show us the evidence.

Mr. OSE. Communications from the Under Secretary for Legal Affairs at the United Nations?

Mr. HANKES-DRIELSMA. Yes. I need to check and confirm who it was. But I had an e-mail from them, saying, show us.

Mr. OSE. Could we get a copy of that e-mail? Would you be willing to provide that?

Mr. HANKES-DRIELSMA. Yes, sir.

Mr. OSE. You also asked Mr. Hans Corell whether he had any information regarding a link between these three Jordanian banking institutions and the Iraq secret service, or any other part of the Saddam Hussein system. And the response from Mr. Hans Corell or his communications person has been?

Mr. HANKES-DRIELSMA. Show us the evidence.

Mr. OSE. Show us the evidence that would lead you to ask that question?

Mr. HANKES-DRIELSMA. I need to be clear. The response to that letter was simply, show us the evidence on the allegations. It wasn't—

Mr. OSE. Four words?

Mr. HANKES-DRIELSMA. Yes, absolutely. That was it.

Mr. OSE. It said, Dear Mr. Hanks-Drielsma, show us the evidence? Sincerely, your friend.

Mr. HANKES-DRIELSMA. Absolutely. Basically that's what it said. The concern has been, and I think the evidence will show that the Jordanian banks were in concert with the Iraq government and worse, the Iraq secret service. For that reason, when Ambassador Bremer proposed that one of the banks should be given a banking license, the evidence was produced, Washington, and eventually the Jordanian bank was not given the banking license, because the evidence was overwhelming that they had held accounts for Iraqi secret service.

Mr. OSE. Now, you also asked Mr. Hans Corell, the Under Secretary for Legal Affairs and Legal Counsel of the United Nations for the Secretary General, why did the U.N. approve oil contracts to non-end users. And he said, show us the evidence, your friend, Hans Corell?

Mr. HANKES-DRIELSMA. It was only one sentence for the whole letter.

Mr. OSE. And he had no information about the price of the oil contracts that the U.N. approved to non-end users?

Mr. HANKES-DRIELSMA. If they did, they certainly weren't prepared to provide it.

Mr. OSE. Well, I've heard of stonewalling, this is pretty good.

Why do you believe the Security Council did not take concrete steps to prevent these fraudulent transactions where oil was priced differently?

Mr. HANKES-DRIELSMA. I can't, I don't know.

Mr. OSE. Show me the evidence.

Mr. HANKES-DRIELSMA. Show me the evidence. [Laughter.]

Mr. OSE. You still haven't received any response, or actually received a response, you still haven't received any answers to the letter or letters that you've submitted on behalf of the Iraq Governing Council to Mr. Hans Corell regarding these various issues, other than show me the evidence, your friend, Hans Corell?

Mr. HANKES-DRIELSMA. The only communication I had from the United Nations was the IOS internal oversight department asking whether I would be prepared to meet with them, and I said I would. And I met with them in New York. They came to see me in my hotel. They asked if I could possibly provide them some particularly evidence relating to individuals within the U.N. and the evidence that I had at that moment I provided to them, and they requested today, they would agree for that to be passed on to the new panel. And I of course said—

Mr. OSE. Are they going to turn that over to Mr. Volcker's group?

Mr. HANKES-DRIELSMA. They are.

Mr. OSE. Would you be willing to turn it over to this committee?

Mr. HANKES-DRIELSMA. Yes, sir. I have no problem with that.

Mr. OSE. For the record, the witness said that he would be willing, maybe we ought to followup on that letter, Mr. Chairman.

Are you aware of any contacts between companies contracting with Iraq and members of the Security Council, representatives of the member states on the Security Council?

Mr. HANKES-DRIELSMA. In contact with who?

Mr. OSE. Are you aware of any contacts between companies contracting with Iraq under the Oil-for-Food Program and representatives of the member states of the Security Council?

Mr. HANKES-DRIELSMA. I wouldn't know.

Mr. OSE. What about Russian owned or controlled companies in particular?

Mr. HANKES-DRIELSMA. I do not know whether there's any contact.

Mr. OSE. How about French companies?

Mr. HANKES-DRIELSMA. I do not know.

Mr. OSE. OK. Are you aware of any contacts between Mr. Sevan and any of the contractors under the Oil-for-Food Program?

Mr. HANKES-DRIELSMA. I'm not aware of any.

Mr. OSE. I just want to make sure I have it clear in my head. There were surcharges charged to the oil that was sold under the Oil-for-Food Program, either in the form of little added bits to the price or the requirement to purchase vouchers, and then on the other side, there were kickbacks, if you will, on the purchase of material that was supposedly going to go to the Iraqi people, whether it be for food or medicine or a Mercedes Benz or what have you. Is that correct?

Mr. HANKES-DRIELSMA. Right.

Mr. OSE. So it was kind of getting money on both ends?

Mr. HANKES-DRIELSMA. Yes, correct.

Mr. OSE. All right. Thank you, Mr. Chairman.

Mr. SHAYS. I just have one question, it won't keep us here long at all. What is the institutional and political relationship between the Iraqi Governing Council and the Iraqi Board of Supreme Audit?

Mr. HANKES-DRIELSMA. I don't know the answer to that, Mr. Chairman.

Mr. SHAYS. What I want to know is, are they both doing the same audit of Oil-for-Food?

Mr. HANKES-DRIELSMA. I do not know whether they are actually going to—what happened was that they put out a tender, invitation to tender, subsequent to the invitation to tender——

Mr. SHAYS. I'll have my crack staff get the answer to that question.

Mr. HANKES-DRIELSMA. Thank you.

Mr. SHAYS. Is there anything you would like to put on the record before we adjourn?

Mr. HANKES-DRIELSMA. No.

Mr. SHAYS. You've been a wonderful witness. This hearing today would not have been as meaningful had you not been able to come here, and we're very grateful that you made the effort to be here, and thank you so very much.

With that, we are now adjourned. Thank you.

[Whereupon, at 4:15 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional information submitted for the hearing record follows:]

**Summary of Basic Documents and Related Materials Being
Returned**

OSD-Legislative Affairs:	Classification:	OSDLA- Control No:	Date Received:
Document Control Record	Unclassified	20040074	May 17, 2004

Committee Number:	Hearing Dates:
1	April 21, 2004

Committee:
House Government Reform/Nat'l Sec, Emerging
Threats and Intern't'l Relations

Subject:
The Oil-For-Food Program

Witness
No

OPR:	Committee Suspense Date:	Close Out Date:
DCAA	May 17, 2004	June 30, 2004

Document Type:	Page Inventory:	Document Description:
Questions for the Record		06/30/04 - Sent transcript pgs and QFRs (1-3) to cmte.

Attention: Briggs Robert
Location: B-372 RHOB

Receiving Officer Signature: _____ Date: _____

Hearing Date: April 21, 2004
 Committee: House Government Reform
 Subcommittee: National Security,
 Emerging Threats, and International
 Relations
 Member: Chairman Shays
 Witness: Michael Thibault,
 Dep. Dir. DCAA

Question # 1

Question: How many U.S. citizens or companies were directly involved in the OFF program?
 How many U.S. citizens or companies were indirectly involved with OFF through middlemen or front companies?

Answer: With respect to the number of U.S. citizens "directly involved", there were many UN personnel, some of whom were U.S. citizens, which were involved in the screening and approval processes. The DCAA/DCMA team did not review this process in detail. Therefore, our comments are limited to the use of U.S. companies relating to the contracts between the Iraq ministries and suppliers.

In the review of 759 contracts, the DCAA/DCMA team did not identify any OFF contracts that were directly with a U.S. supplier. However, it appeared that some contracts may have included U.S. manufactured goods procured through a middleman.

The DCAA/DCMA review team was not able to collect complete data on the use of middlemen. The team was provided with the contracts between the Iraq ministries and the supplier, which may or may not be a middleman. The submissions from the suppliers did not always identify the country of the origin of the goods. However, as referenced in the DCAA/DCMA report, the review team did identify a few contracts that were providing U.S. manufactured products (for example; Ford Ambulance, page 73; Caterpillar scraper, page 81-83). The review team also noted the following contract where the use of a middleman was identified,

Contract COMM 830077 was approximately a \$1.6 million contract for oil field trucks between Bukkehave (Denmark company) and the Iraq Ministry of Oil. The origin of the vehicles was a U.S. manufacturer. The DCAA/DCMA team found that the Danish middleman added a 20% markup to the price charged by the U.S. supplier plus a 15% "after sales service" fee (see page 113-114 of the DCAA/DCMA report).

Hearing Date: April 21, 2004
Committee: House Government Reform
Subcommittee: National Security,
Emerging Threats, and International
Relations
Member: Chairman Shays
Witness: Michael Thibault,
Dep. Dir. DCAA

Question # 2

Question: What was the response from other U.S. government agencies, such as the Department of State and the Treasury and the Coalition Provisional Authority (CPA) and Iraqi officials to the September 12, 2003 'Report on the Pricing Evaluation of Contracts Awarded under the Iraq Oil for Food Program' submitted by the Joint Defense Contract Audit Agency and Defense Contract Management Agency OFF Pricing Evaluation Team? Did the appropriate US government agencies concur with and follow through on the report recommendations? Have the appropriate US government agencies pursued companies identified by the report as overpricing contracts?

Answer: DCAA has not been involved in any action taken by the CPA to recover any potential contract overpricing; therefore, we are unaware of the actual recoveries.

Hearing Date: April 21, 2004
Committee: House Government Reform
Subcommittee: National Security,
Emerging Threats, and International
Relations
Member: Chairman Shays
Witness: Michael Thibault,
Dep. Dir. DCAA

Question # 3

Question: In your testimony, you noted poor inventory control issues in northern Iraq (unofficial hearing transcript, p. 52). Are inventory control issues localized to northern Iraq? What steps have been taken by CPA and Iraqis to address these concerns?

Answer: DCAA has not been requested to perform audit activity relating to inventory controls for warehouses other than those located in Northern Iraq. Therefore, DCAA can only comment on control issues at warehouse locations in Northern Iraq. Since the April 21, 2004 testimony, DCAA has learned from CPA representatives that inventory controls at warehouses in Northern Iraq have improved, for example;

- inventory control procedures have been implemented at most warehouses located in Northern Iraq,
- each warehouse manager has a complete inventory of the items in the warehouse and has accountability for items received and items disbursed, and
- inventory counts were verified in March and April 2004 by a committee appointed by the Kurdish Regional Government (KRG) and Counsel of Ministries.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 30, 2004

Tom Costa
Subcommittee on National Security,
Emerging Threats and International Relations
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Costa:

Please find enclosed a response to the questions for the record that were submitted to the Treasury Department in connection with my appearance before the Subcommittee on April 21, 2004.

We regret the delay in providing you with a complete set of responses. Please do not hesitate to let me know if the Treasury Department can be of assistance to the Chairman, to you, or to other members of the staff as you continue the important work of the Subcommittee.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Ross", with a stylized flourish at the end.

Jeff Ross
Senior Advisor to the Deputy Assistant Secretary
Executive Office for Terrorist Financing & Financial Crimes

ANSWERS TO CONGRESSMAN SHAYS REGARDING OFAC ACTIVITIES PURSUANT
TO OIL-FOR-FOOD PROGRAM

How many U.S. citizens or companies were directly involved in the OFF program? How many U.S. citizens or companies were indirectly involved with OFF through middlemen or front companies? What is the U.S. doing to investigate those citizens and companies for possible corruption? What efforts, if any, are underway to pursue criminal charges against companies involved in the corruption of OFF in the U.S., Iraq, or other countries? Is the U.S. aware of any precautions taken by U.S. oil companies to ensure they purchased Iraqi oil through the OFF and not illicitly?

The United States Department of the Treasury, Office of Foreign Assets Control ("OFAC"), issued approximately 1050 licenses to U.S. persons for various aspects of the OFF program, primarily under three provisions of the Iraqi Sanctions Regulations, 31 CFR Part 575 (the "ISR"). Sales to the Government of Iraq ("GOI") of oilfield parts and equipment and humanitarian aid were subject to licensing under, respectively, sections 575.524 and 575.525 of the ISR. Three U.S. companies were authorized under section 575.524 to sell oilfield parts and equipment directly to the GOI, and 23 U.S. companies were authorized under section 575.525 to make direct sales to the GOI of humanitarian aid. A total of 48 licenses were issued to these 26 U.S. companies authorizing performance of sales contracts entered into with the GOI. In addition, nine U.S. companies were each issued a license authorizing the performance of contracts approved by the UN 661 Committee for the purchase of Iraqi-origin petroleum or petroleum products directly from the GOI pursuant to the licensing policy stated in section 575.523 of the ISR.

Many more U.S. persons were authorized to engage in trade transactions with third country entities who were contractors or subcontractors with the GOI. Under 575.523, OFAC issued thirteen licenses to seven U.S. persons for activities that facilitated the purchase of Iraqi oil by third parties. The remaining approximately 1000 licenses authorized transactions by U.S. persons with third parties related to sales to the GOI, or authorized non-U.S. persons to engage in transactions involving U.S.-origin goods or components being supplied to the GOI.

OFAC is working with the Department of Justice in ongoing investigations of potential violations of the OFF program. In one case, dealing with the purchase of Iraqi oil in excess of the amount authorized by the U.N. under OFF, OFAC ordered a U.S. company to place several million dollars into a blocked account at a U.S. financial institution. In another case, OFAC provided information from an OFF license file to an Assistant U.S. Attorney. As Justice expands its investigations, OFAC will increase the levels of its assistance as appropriate.

Section 575.526 of the Iraqi Sanctions Regulations, 31 C.F.R. Part 575, is a general license which authorized United States persons to import Iraqi-origin petroleum and petroleum products

into the United States provided that the goods in question had been approved for purchase and export from Iraq by the United Nations 661 Committee. In a memorandum of guidance from OFAC to the U.S. Customs Service dated January 31, 1997, OFAC recommended that Customs require importers to provide a copy of the 661 Committee approval for which the petroleum or petroleum products in question comprised all or a part of the original purchase. In addition, OFAC suggested that Customs might wish to request from the importer a brief statement describing the type and amount of the imported products and affirming that, to the best of the importer's knowledge and belief, the imported petroleum or petroleum products comprised all or a portion of the purchase covered in the accompanying UN document. In a memorandum to OFAC dated March 6, 1997, Customs confirmed that they had issued instructions to Customs field offices pursuant to the guidance contained in OFAC's memorandum.

Has the U.S. investigated any U.S.-owned or controlled companies that contracted with the Iraqi government for violations of the Foreign Corrupt Practices Act (FCPA)? Have any FCPA investigations been referred to the Department of Justice? Have any major U.S. oil companies been implicated? If so, which ones?

Inquiries concerning investigations of suspected violations of the FCPA should be directed to the U.S. Department of Justice.

When the Office of Foreign Assets Control (OFAC) originally authorized U.S.-owned or controlled companies to contract with the Iraqi government, what level of review or oversight did OFAC exercise over these U.S.-Iraqi contracts? What additional review(s) is OFAC currently exercising?

U.S. persons who had entered into executory contracts with the Government of Iraq for the sale of civilian goods and oilfield parts and equipment were required to submit an application to OFAC for a case-by-case review and approval prior to performance of each contract. As part of the review process, each application was referred to the Department of State for policy guidance as to whether performance of the contract should be authorized, and for forwarding of a copy of the contract to the UN 661 Committee for approval of payment upon delivery of the goods to Iraq. OFAC made a final determination with respect to licensing the applicant to perform the terms of that particular contract only after receiving from State a copy of the 661 Committee approval of payment and a separate memorandum from State recommending that a license be issued to the applicant. Where we had reason to believe an OFAC violation had occurred we undertook appropriate action. We are currently participating in multi-agency investigations.

Consistent with United Nations Security Council Resolution Number 1483 (May 22, 2003), which lifted most multilateral sanctions against Iraq, on May 22, 2003, OFAC amended the Iraqi Sanctions Regulations, effective May 23, 2003, to add a general license authorizing U.S. persons to engage in all transactions previously prohibited under the Regulations, except as provided in

paragraph (b) of the license. Paragraph (b) requires OFAC to review and specifically license the exportation of goods or technology controlled by the Commerce Department under the Export Administration Regulations for export to Iraq.

In your testimony, you specifically note, "OFAC is reviewing the licenses it issued in support of the OFF program to determine if any U.S. persons were involved in any inappropriate activity" (unofficial hearing transcript, p.58). What is the status of the OFAC investigation into licensees?

OFAC is coordinating its efforts with the Department of Justice and other enforcement agencies. Referrals for criminal investigation will be made as appropriate. For cases that are not pursued criminally by Justice, appropriate OFAC civil enforcement action will be taken if it is determined that a U.S. person engaged in transactions outside the authorization of an OFAC license or otherwise in violation of OFAC regulations.

BNP Paribas is a licensed bank in the U.S. Has Treasury ever requested reports pertaining to OFF from BNP Paribas under license No. 10-758? If so, why and what reports? If not, why not?

UN Security Council Resolution 986 of April 1995, which established the UN Oil for Food program, called for an escrow account to be established to receive the proceeds of Iraqi petroleum sales and to disburse funds to UN-authorized sellers of humanitarian products. According to paragraph 15 of UNSCR 986, "...the account established for the purpose of this resolution enjoys the privileges and immunities of the United Nations." Paragraph 7 of UNSCR 986 requested that the Secretary General "appoint independent and certified public accountants to audit it..."

Paragraph 14 of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq, which was signed on May 20, 1996, elaborated on the audit requirement, stating that,

In accordance with the United Nations Financial Regulations, the "Iraq Account" will be audited by the Board of Auditors who are external independent public auditors. As provided for in the Regulations, the Board of Auditors will issue periodic reports on the audit of the financial statements relating to the account. Such reports will be submitted by the Board to the Secretary-General who will forward them to the 661 Committee and to the Government of Iraq.

The UN chose BNP Paribas, New York (BNP) to be the holder of the escrow account. The United Nations and BNP signed an "Agreement for Banking Services" (the Agreement) on September 12, 1996, for the creation of the United Nations Iraq Account on BNP's books. The Agreement stated that, "the account shall enjoy the privileges and immunities of the United Nations (and that) the account shall be audited as provided in paragraph 7 of SCR 986 and paragraph 14 of the Memorandum of Understanding."

Section 1.18.4 of the Agreement further stated,

If any confidential information is sought by a Court or government agency having jurisdiction over the Bank to require such information, the Bank shall:

(b) inform the Court or regulatory agency that such information is privileged under the Convention on the Privileges and Immunities of the United Nations, as well as, in the United States, the International Organizations Immunities Act of the United States, Public Law 79-291, 29 December 1945.

On June 18, 1996, OFAC was requested by the Controller of the United Nations to issue a license to BNP authorizing it to open, maintain and operate "an account of the United Nations . . . with the title 'United Nations SCR 986 Escrow Account.'" The request was reiterated by BNP itself through its counsel on September 13, 1996.

OFAC's standard practice at the time included a monthly reporting requirement covering all imports and exports effected pursuant to the license. After reviewing supporting documentation, Treasury's Office of General Counsel confirmed that the account to be licensed enjoyed the privileges and immunities of the United Nations. At the recommendation of the Department of State, OFAC's usual monthly reporting requirement was replaced with a reminder that records needed to be maintained by BNP and could be examined "if needed." Should the United Nations waive its privileges and immunities regarding this account, OFAC will be ready to assist in an appropriate review of their records.

Roland Berger

Strategy Consultants

Chairman

June 18, 2004

The Honorable Christopher Shays
Chairman
U.S. House of Representatives Subcommittee
on National Security, Emerging Threats, and
International Relations
Room B-372 Rayburn Building
Washington, D.C. 20515-6143

Dear Representative Shays:

Thank you for your letter dated April 30, 2004. The questions raised by Congressman C.A. Dutch Ruppersburger (D-MD) are restated and answered as follows:

1. Please provide a description of your current and past position(s) with respect to the Iraqi Governing Council. Please include in this description specific details regarding any financial or other arrangement you have entered into to provide services to the Iraqi Governing Council.
2. Please provide a complete and detailed history of your personal and financial interactions and dealings with any members of the Iraqi Governing Council, regardless of when such activity took place.

Responding to both questions. In December 2003, I agreed to be an advisor to the Iraqi Governing Council (IGC). My appointment was confirmed by the Finance Committee of the IGC, which is chaired by Dr. Ahmad Chalabi. I first became involved with Iraqi matters at the end of the Iran-Iraq war. Ever since I have known a number of key Iraqi families, some of which are represented in the IGC. I have no financial or other arrangements with the IGC or with any of its members other than as herein.

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3. What are the Iraqi Governing Council's sources of information regarding allegations that United Nations' officials were directly involved in corruption in the U.N. Oil-for-Food program? Does the Iraqi Governing Council have documents regarding these matters? Who provided those documents to the Iraqi Governing Council? Who is in possession of them now? Have these documents been authenticated as of the current date, either in their entirety or in part? If so, which parts?

Please see written testimony. The list of non-end users who purchased crude oil through the United Nations' approved Oil-for-Food Program was originally seen by me in December 2003. This list was prepared by Iraqi Government officials in Iraq ministries from existing files. Records were kept by Iraqi civil servants and most transactions were cross-referenced with the appropriate approvals. The list included names that raised questions and suggested a pattern of buying influence through individuals with political influence within their own countries. No conclusions can be drawn until KPMG has been allowed to complete its report for the Iraqi people. The KPMG investigation is the only fully comprehensive and truly independent investigation at the present time.

In addition, during the hearing I agreed to submit the following information for the record:

a.) A list of Security Council members and 661 Committee members between 1996 and 2003 (unofficial hearing transcript, p. 141).

Mr. Stephane Dujarric, UN spokesman, confirmed that all members of the Security Council are 661 Committee members. Please see attached list.

b.) Records that establish money flows involving Oil-for-Food from Iraq into Jordanian bank accounts and indicating where those monies originated (unofficial hearing transcript, p. 225-226).

These details were given by officials at the Central Bank on the assumption that they would not be made public until mutually agreed. The Central bank will need to negotiate for the return of these funds and releasing this information at the present time could well jeopardize this process.

c.) Copy of written responses, including emails, to your queries and letters concerning the Oil-for-Food Program to the United Nations (unofficial hearing transcript, p. 226-227).

Please see attached copies of two emails from Mr. Hans Corell sent December 12, 2003 and February 6, 2004.

Roland Berger
Strategy Consultants

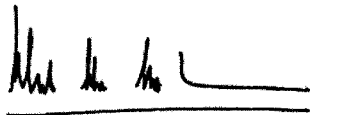
d.) Evidence implicating individuals within the United Nations in corruption of the Oil-for-Food Program (unofficial hearing transcript, p. 229-230).

Please see attached documents referred to in the hearing with specific reference to Mr. Benon Sevan. In addition, please see the list of non-end users as submitted in evidence during the hearing which also include reference to the former French ambassador to the United Nations.

Enclosed is also a timeline produced by my office and one produced by KPMG, and a copy of all my press releases. I have also enclosed my fax to you of 27 May 2004 with reference to the misleading information put out by the Coalition Provisional Authority relating to the Supreme Audit Board role.

Please do not hesitate to let me know if there is any further information you require.

Sincerely,

A handwritten signature in black ink, appearing to read 'Claude Hanks-Drielsma', written over a horizontal line.

Claude Hanks-Drielsma

Security Council Membership 1996-2003

Angola 2003
Argentina 1999, 2000
Bahrain 1998, 1999
Bangladesh 2000, 2001
Brazil 1998, 1999
Botswana 1996
Bulgaria 2002, 2003
Cameroon 2002, 2003
Canada 1999, 2000
Chile 1996, 1997, 2003
China - permanent member
Colombia 2001, 2002
Costa Rica 1997, 1998
Egypt 1996, 1997
France - permanent member
Gabon 1998, 1999
Gambia 1998, 1999
Germany 1996, 2003
Guinea 2002, 2003
Guinea-Bissau 1996, 1997
Honduras 1996
Indonesia 1996
Ireland 2001, 2002
Italy 1996
Jamaica 2000, 2001
Japan 1997, 1998
Kenya 1997, 1998
Malaysia 1999, 2000
Mali 2000, 2001
Mauritius 2001, 2002
Mexico 2002, 2003
Namibia 1999, 2000
Netherlands 1999, 2000
Norway 2001, 2002
Pakistan 2003
Poland 1997
Portugal 1997, 1998
Republic of Korea 1997
Russian Federation - permanent member
Singapore 2001, 2002
Slovenia 1998, 1999
Spain 2003
Sweden 1997, 1998

Syria 2002, 2003

Tunisia 2000, 2001

Ukraine 2000, 2001

United Kingdom - permanent member

United States - permanent member

Members of 661 Committee

All members of the Security Council are members of the 661 Committee

China, France, Russia, United Kingdom, and the United States are permanent members

1996 - Chairman: Tono Eitel (Germany); Vice-Chairmen: Botswana, Poland; members: Chile, Egypt, Guinea-Bissau, Honduras, Indonesia, Italy

1997 - Chairman: Antonio Victor Martins Monteiro (Portugal); Vice-Chairmen: Guinea-Bissau, Poland; members: Chile, Costa Rica, Egypt, Japan, Kenya, Republic of Korea, Sweden

1998 - Chairman: António Monteiro (Portugal); Vice-Chairmen: Gabon, Brazil; members: Bahrain, Costa Rica, Gambia, Japan, Kenya, Sweden

1999 - Chairman: Peter van Walsum (Netherlands); Vice-Chairmen: Argentina, Gabon; members: Bahrain, Brazil, Canada, Gambia, Malaysia, Namibia, Slovenia

2000 - Chairman: Peter van Walsum (Netherlands); Vice Chairmen: Argentina and Ukraine; members: Bangladesh, Canada, Jamaica, Malaysia, Mali, Namibia, Tunisia

2001 - Chairman: Mr. Ole Peter Kolby (Norway); Vice Chairs: Mauritius and Ukraine; members: Bangladesh, Colombia, Ireland, Jamaica, Mali, Singapore, Tunisia

2002 - Chairman: Mr. Ole Peter Kolby (Norway); Vice Chairs: Bulgaria and Mauritius; members: Cameroon, Colombia, Guinea, Ireland,

-----Original Message-----

From: Hans Corell [mailto:corell@un.org]
Sent: 12 December 2003 16:25
To: office@stanfordplace.com
Subject: Please call me urgently

Message for Mr. Claude Hanks-Drielsma:

Please call me urgently in relation to a fax addressed to the
Secretary-General.

Hans Corell
Under-Secretary-General for Legal Affairs
The Legal Counsel of the United Nations

+ 1 212 963-5338

-----Original Message-----

From: Hans Corell [mailto:corell@un.org]

Sent: 06 February 2004 17:02

To: Stanfordplace

Cc: naird@un.org

Subject: Re: Iraq/Letter to Mr. Kofi Annan-Secretary General-5th
December

2003-Recommendng Independent Commission

Dear Mr. Hanks-Drielsma,

I have received your e-mail with additional information. This
information
has been brought to the attention of relevant persons within the
Secretariat, including the Under-Secretary-General for Internal
Oversight
Services Mr. Dileep Nair. He requests you to forward to him any
documents
or evidence you might have in your possession relating to the
allegations
you have made. His telephone and fax numbers are 212 963-6196 and
212
963-7010, respectively. His e-mail address appears above.

Sincerely,

Hans Corell

Fil. dr. Paul Conlon

IRAQ
FILE REF:

Adelsbergstrasse 11b
D-81247 München

Tel. + 49 89 / 811 798 50
Fax + 49 89 / 811 798 51
Email: trans@transjuris-ek.de

Conlon · Adelsbergstrasse 11b · D-81247 München

FAKED TO BE
AT CARLTON HOTEL

RECEIVED
21 APR 2004

Mr Claude Hanks-Drielsma, Chairman
The Windsor Leadership Trust
Gainsborough House, 59-60 Thames Street
Windsor, Berkshire
GB-SL4 1TX – Großbritannien

16 April 2004

re: The number of UN officials implicated in Oil-for-Food bribery allegations

Dear Mr Hanks-Drielsma,

Since mass media reports that I have seen on this subject only cite a single UN official as having figured on a list found in an Iraqi ministry's archives, I take the trouble of bringing the following matter to your attention, hoping that I am not bringing coals to Newcastle in doing so.

Press reports invariably cite the name of Mr Benon Sevan who was once my superior in the Security Council department of the UN.

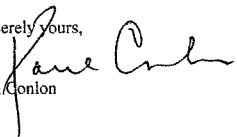
The list published by *Defense & Foreign Affairs Daily* also contained (under China) a reference to one Mr Wan whose full name is Wan Jingzhang. Wan was for many years the secretary of the 661 (Iraq) Sanctions Committee. He too was my colleague. He was a career diplomat in the Chinese Foreign Ministry who was seconded to the UN in the early 1990s and may have recently returned to China.

Less certain is the possibility that a name given (under France) as "Di Souza" could refer to one Wilfrid de Sousa, a French national who worked almost his entire life for the UN in various departments. Whether he had any functions in the oil-for-food programme goes beyond my personal knowledge. Caution is additionally advised since this (originally Portuguese) surname is very common.

The historical background to what later transpired under the oil-for-food programme is given in my book, *United Nations Sanctions Management: A Case Study of the Iraq Sanctions Committee 1990-1994*, published in 2000 by Transnational Publishers in New York (ISBN: 1-57105-059-0), where I pointed out that it was only a matter of chance if, when and how corruption would occur in the relevant section of United Nations activities since all the structural prerequisites for corruption were well in place.

I remain,

Sincerely yours,


Paul Conlon

Mitglied im Bundesverband der Dolmetscher und Übersetzer (Landesverband Bayern) e.V.
Professional Member Cumann Aistitheoirí agus Teangairí na hÉireann – Irish Translators' and Interpreters' Association

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بسم الله الرحمن الرحيم

الجمهورية العراقية
وزارة النفط
شعبة تنمية النفط (شعبة عامة)

الرقم
التاريخ ١٤١٩/٢٤٥٨/١٧
١٩٩٨/٨/١٠

وزارة النفط / مكتب الوزير
الرقم /
التاريخ ١٩٩٨/٨/١٠

السيد وزير النفط المحترم

AFRICAN MIDDLE EAST PETROLEUM CO. LTD. INC. /
(السيد /)

تقدمت شركة (AFRICAN MIDDLE EAST PETROLEUM CO. LTD. INC.) بطلب
(مرفق بها) لشراء النفط العراقية خلال المرحلة المالية من مذكرة التفاهم.
وقد أعلمنا السيد مولة أيوب من الممثلة العراقية في نيويورك هاتفياً
بأن الشركة المذكورة أعلاه هي التي ذكرها لسيادتكم السيد سيدان مهندس
بحساب الجواز في الأمم المتحدة خلال زيارته الأخيرة إلى بغداد.

للتفضل بالاطلاع والتشجيع.

مع التحية ...

مصادم وزير النفط
المدير التنفيذي

حصلت مراجعة السيد /
المرافق /
٩٨/٨/١٥

١٥

مصادم وزير النفط

١٨ مليون دينار
١٥

كتاب النفقة المخصصة والمنفذة للسيد نبون سيديان

رقم	المرحلة	المبلغ المخصصه (مليون برين)	المبلغ المنفذه (مليون برين)
١	الزوجة	١,٨	١,٨٤٦
٢	الخامسة	١,٠	-
٣	السادسة	٢,٠	٢,٠١
٤	السابعة	١,٥	١,٤٨٩
٥	الثامنة	١,٥	١,٩٥٢
٦	التاسعة	-	١,٠٠٠
٧	العاشره	١,٠	-
٨	الحادي عشر	٢,٥	-
٩	الثاني عشر	١,٥	-
١٠	الثالث عشر	١,٥	-
	المجموع	١٢,٨	٧,٤٩١

In the Name of God the Merciful, the Benevolent

Republic of Iraq
Ministry of Oil

No. 9124
Date: 10 August 1998

SOMO (General Company)

The Hon. Oil Minister:

AFRICAN MIDDLE EAST PETROLEUM CO. LTD. INC.
Mr. Sevan

The AFRICAN MIDDLE EAST PETROLEUM CO. LTD. INC. put down a request (Taya Port) to buy Iraqi oil during the current period of the memorandum of understanding.

Mr. Muwafaq Ayoub of the Iraqi mission in New York informed us by telephone that the abovementioned company is the company that Mr. Sevan cited to you during his last trip to Baghdad.

For your consideration and proportioning.

With respects....

Saddam Zain Hassan
Executive Manager

(in handwriting: the permission of the Vice President of the Republic in a meeting of the Command Council in the morning of August 15th, 1998)

Quantity of Oil Allocated and Given to Mr. Benon Sevan

Phase	Allocated Quantity One million barrels	Quantity Executed One million barrels
4 th	1.8	1.836
5 th	1.0	--
6 th	2.0	2.01
7 th	1.5	1.489
8 th	1.5	0.952
9 th	--	-- (no follow up)
10 th	1.0	1.004
11 th	2.5	--
12 th	1.5	--
13 th	1.5	--
Total	14.3	7.291

TIMELINE

PREPARED BY MR. HANKES-DRIELSMAS OFFICE

DECEMBER 2003

- **Nov. 27 to Dec. 8** – Mr. Claude Hanks-Drielsma in Baghdad. Meetings included Dr. Ahmed Chalabi, Chairman Finance Committee of the Iraq Governing Council, Minister of Finance, Minister of Oil, Governor of the Central Bank, Trade Bank, etc. During his visit, Mr. Hanks-Drielsma became aware of the magnitude of the Oil-for-Food Program. Saw the list prepared by oil ministry officials of non-end users. Tried to see Ambassador Bremer to discuss this (Ambassador Bremer's diary did not allow).
- **Dec. 5** – Letter from Mr. Hanks-Drielsma to Mr. Kofi Annan. First of three letters to the Secretary-General. Contents: Urged the UN to take the moral high ground and consider appointing an independent commission to review and investigate the Oil-for-Food Program. (Excerpts of the letter were published in The Wall Street Journal, "Saddam's Global Payroll," by Theresa Raphael on Feb. 9.)
- **Dec. 12** – Mr. Hans Corell, Under Secretary for Legal Affairs and Legal Counsel of the UN for the Secretary General, replies to Mr. Hanks-Drielsma's email asking to speak.

JANUARY 2005

- **Jan. 25** – Non-end user list published in Al-Mada. For clarification, non-end users are those purchasers of crude oil who do not themselves own a refinery.

FEBRUARY 2004

- **Early Feb.** – Mr. Hanks-Drielsma approaches KPMG and Freshfields on behalf of the IGC to request them to conduct an investigation into the UN Oil-for-Food Program, with the ultimate view of making asset recoveries on behalf of Iraq from any parties found to have improperly benefited.
- **Feb. 2** – Letter from Mr. Hanks-Drielsma to Mr. Corell. Copy to the IGC, the Foreign Secretary, Mr. Jack Straw, and Mr. John Buck, Director, Iraq at the Foreign Office. Second of three letters to the Secretary General. Contents: UN independent inquiry, outlines areas that need urgent investigation, specifically Oil-for-Food Program and UN approval of oil contracts under the program.
- **Feb. 6** – Mr. Corell replies to Mr. Hanks-Drielsma's letter to the Secretary General via e-mail re. requesting documents are forwarded to Dileep Nair, Under Secretary General for Internal Oversight Services.
- **Feb. 24 to March 3** – Mr. Hanks-Drielsma in Baghdad. Visits with Mr. Wethington to explain fully background of KPMG Freshfields by the IGC and why KPMG was chosen. Suggested at that meeting that the CPA meet with KPMG. This proposal was welcomed and the meeting took place. Present were Mr. Wethington, Mr. Hanks-Drielsma, Adam Bates (KPMG) and Alan Davies (KPMG). Meetings also took place with KPMG, Mr. Hanks-Drielsma, Minister of Oil, Governor of Central Bank, Finance Minister, and members of the Iraq Government Audit Department.

CPA confirms its full support for KPMG investigation and cooperation with it.

MARCH 2004

- **March 3** – Letter from Mr. Hanks-Drielsma to Mr. Kofi Annan c/o Mr. Corell. Third of three letters to the Secretary General. Contents: Notifies that Iraq appointed KPMG and Freshfields Bruckhaus Deringer to prepare an independent report that will be presented to the IGC to determine what action is to be taken. Received extensive press coverage. The CPA was fully informed and had given their verbal support of KPMG's appointment. Quote by Mr. Hanks-Drielsma, "It will not come as a surprise if the Oil-for-Food Program turns out to have been one of the world's most disgraceful scams, and an example of inadequate control, responsibility, and transparency, providing an opportune vehicle for Saddam Hussein to operate under the UN aegis to continue his reign of terror and oppression." (This was later published by The Sunday Telegraph, "UN caves in on inquiry into Iraq oil-for-food 'scandal' Officials deny pocketing huge sums through Saddam's 'voucher' system," by Charles Laurence and Inigo Gilmore on March 14.)
- **March 22** – KPMG commence investigation in Baghdad. Commence program of visits to Ministry of Oil, SOMO, Ministry of Trade, etc.
- **March 24** – KPMG make presentation to the Finance Committee of the IGC on its experience, an overview of the Oil-for-Food Program and engagement objectives. CPA representative are present at the meeting.
- **March 25** – Ambassador Bremer confirms the Iraq Development Fund would pay for the IGC report on the Oil-for-Food Program, but informs the Finance Committee of the IGC that he would not release the funds from the Iraq Development Fund (\$5 million) to meet the costs of the investigation unless the work was put out to tender.
- **March 26** – An invitation to tender was put out by the Finance Committee of the IGC with a closing date of April 9, 2004.
- **March 26** – Letter from the IGC to Mr. Kofi Annan. Contents: Reconfirms the IGC's full cooperation with the UN investigation, but asks for the UN's cooperation in furthering its own investigation. Requested immediate assistance in the following areas: access to relevant UN documents, individuals to be made available for interview, and release agents of the UN of any confidentiality constraints and instruct them to cooperate with the IGC investigation.
- **March 30** – KPMG team returns to London to work on IGC tender.

APRIL 2004

- **April 1** – Mr. Hanks-Drielsma sends an e-mail to Mr. Wethington re. identifying KPMG.
- **April 4** – Mr. Hanks-Drielsma is notified that the CPA might put out their own invitation to tender.
- **April 5** – Letter from Mr. Hanks-Drielsma to Ambassador Bremer. Copy to Mr. Wethington. No response received.

Contents: Concern that the CPA/Board of Supreme Audit is considering their own invitation to tender.

- **April 6** – The CPA confirms to a senior journalist at the Wall Street Journal (Steven Edwards) that the tender process, as put out by the IGC, would stand. Edwards writes that a CPA spokesperson told us that the Iraqi Board of Supreme Audit would be "overseeing the independent Iraqi investigation of allegations of misconduct spanning the management of the former Oil-for-Food Program. This investigation will be carried out by a private auditing/accounting firm to be selected by a full, open, and competitive process. The effort will be funded by \$5 million in development funds for Iraq funds."
- **April 8** – KPMG, together with Freshfields, submit formal proposal to the IGC.
- **April 9** – The CPA, without consultation or informing the Governing Council or the Finance committee of the IGC, puts out an invitation to tender with a closing date of April 24, 2004. The CPA then sends out a further announcement that it wishes to accelerate the process and changes the date to April 20, 2004.
- **April 18** – The Finance Committee of the IGC met and reviewed the submitted tender proposals, concluding that KPMG's proposal was the most competent and suitable for the task. Representatives of the CPA were present.
The IGC unanimously endorses the decision by the Finance Committee to appoint KPMG. Representatives of the CPA were again present at this meeting.
- **April 18 to 27** – Mr. Hanks-Drielsma travels to Washington.
- **April 19** – KPMG seeks clarification from CPA on status of its solicitation. Reply as follows: "Only the BSA contract is funded and authorized to be awarded by a warranted CPA contracting officer. You are reminded that the BSARFP closes tomorrow should you wish to propose."
- **April 20** – KPMG submits proposal to the CPA. This contained one limited scope proposal with a \$5 million budget (the amount stated in the tender document) and another at a more realistic budget of \$20 million.
- **April 21** – Written testimony of Mr. Hanks-Drielsma on the Oil-for-Food Program to the U.S. Congress, the Subcommittee on National Security, Emerging Threats, and International Relations.
- **April 22** – Mr. Hanks-Drielsma meets with Mr. Paul Volcker and Adam Bates.
- **April 25** – CPA advise that negotiations had opened with KPMG on the solicitation. Ask two questions on pricing, and one requesting details on KPMG's concerns regarding terms and conditions.
- **April 26** – KPMG replies to CPA, addressing issues on pricing and setting out a number of concerns with the terms and conditions, including the uncertainties over governing law, indemnification, and contracting parties.
- **April 27** – CPA advise that negotiations are continuing and ask KPMG to address further technical points. KPMG respond to request.
- **April 30** – CPA advise that they intend to award a "time and materials" contract, rather than a fixed price contract, that the \$5 million limitations was no longer applicable, and that the contract would exceed six months.

KPMG confirm that it would support this increase in effort. CPA also advises that feedback would soon be given on terms and conditions issues.

MAY 2004

- **May 5** – CPA issue revised solicitation. Terms and conditions are amended in some respects. Requests three offers – for \$10m, \$20m, and \$30m. Closing date for proposals is May 7.
- **May 6** – KPMG asks for clarification that the terms and conditions provide the contractor with no indemnity against actions taken against it by third parties (regardless of whether actions arise from contractor's negligence.) The CPA Contracting Officer (LCDR Woody Browne) confirms this and states that he is not supposed to "sign the government up for unknown, unfunded liabilities" and suggests this is raised in the KPMG submission.
- **May 6** – Article published in The Washington Times, "U.S., council vie for documents," by Shaun Waterman.
Content: Mr. Hanks-Drielsma accused Mr. Bremer of "highhandedness" and said his insistence on putting the job out for bid had cost vital weeks during which documents might have disappeared. (Direct quote.)
- **May 7** – KPMG issues proposals in response to revised solicitations with three offers (\$10m, \$20m, and \$30m).
- **May 9** – KPMG (Adam Bates) talks on telephone with CPA contracting officer and CPA legal counsel (Mary Clarke) in relation to indemnity issue and possible insurance cover.
- **May 10** – KPMG revert to CPA advising that special insurance cover likely to be hard to find and extremely expensive, especially if jurisdiction of the contract may be the U.S. as currently drafted.
CPA request KPMG to have its proposal translated into Arabic. KPMG commence translation work and advise CPA this would be ready May 13. Later that day, CPA reverts with further revised terms and conditions.
- **May 11** – Mr. Hanks-Drielsma sends an e-mail to the Chairman of the Finance Committee of the IGC re. recommendation of Patton Boggs.
- **May 11** – Further call from the CPA contracting officer and CPA legal counsel advising that a decision on the contract would be made probably by May 13 and asking for immediate response on terms and conditions. KPMG send email setting out remaining concerns in relation to terms and conditions, including uncertainties regarding the governing law, the indemnity issue, and the contracting party. The KPMG email contained suggested drafting changes from Freshfields.
CPA reply agreeing only one spelling error and asking KPMG "please indicate acceptance or rejection of the CPA terms."
- **May 11** – Mr. Hanks-Drielsma called on the CPA immediately to release the necessary funds to allow the Oil-for-Food investigation to continue.
"We are very disappointed to see that the CPA are stalling on this issue, despite having assured us at earlier meetings that the investigation would receive the necessary funding from the Iraq Development Fund. Time is critical and the delay is undermining the Iraq Governing Council's efforts to get to the truth via an independent and rigorous investigation carried out by two leading international professional firms. It is essential that the IGC be allowed to continue with its investigation and my concerns are shared

by many in the US Government. I have just received a letter from Congressman Christopher Shays, who chaired the Congressional Committee looking into this scandal in which he states: The role of the Iraq Governing Council and your effort on their behalf are crucial to getting at what went wrong in the (UN Oil-for-Food) program." "

- **May 12** – Phone conversation with CPA Contracting Officer, KPMG, and Freshfields to explain issues again.
KPMG email to CPA clarifying that the two main issues on the terms and conditions were lack of clarity on governing law and absence of protection from legal costs in relation to third party actions. Email states: "I am hoping that we can see a way for KPMG to remain in the contest. It would seem inequitable if time pressures outside of these negotiations mean we are unable properly to deal with these issues."
Email from CPA Contracting Officer stating, "negotiations are finished. You refused the terms and conditions."
KPMG advise it will protest the decision under Clause 11 (Protests) that allows contractors to protest the terms of the solicitation.
- **May 12** – Letter from Mr. Hanks-Drielsma to Ambassador Bremer. Contents: Concern and disappointment that the CPA has still not released the necessary funds to allow the KPMG investigation to continue. Calls on Ambassador Bremer to immediately release the funds. States that a separate investigation creates confusion and concern and may be widely perceived as being politically motivated.
- **May 20** – CPA press conference (from CJTF7 website). Mr. Senor spokesman states: "I am aware that Mr. Chalabi was looking into an investigation of his own. That may or may not be the case, but that certainly isn't the Iraqi government investigation. The Iraqi government investigation is being led by an independent professional agency, Board of Supreme Audit. Mr. Chalabi and other members of the Governing Council have been aware of that for a number of months now because Ambassador Bremer told them shortly after the oil-for-food fraud in the oil-for-food program broke." This statement was so misleading that Mr. Hanks-Drielsma put out a press release.
- **May 21** – Call for IGC/KPMG Oil-for-Food investigation to continue. Mr. Hanks-Drielsma spoke out in response to comments made by CPA spokesman, Mr. Senor, on May 20. Mr. Hanks-Drielsma said, "it is not only absurd, but a deception of the public, for Mr. Senor to suggest that Dr. Chalabi was looking to conduct his own private investigation into the oil-for-food scandal. The decision to appoint KPMG was a unanimous decision taken by the Iraqi Governing Council. The CPA were present at the meeting when KPMG was appointed. Ambassador Bremer informed the IGC that he would make funds available for this investigation from the Iraq Development Fund. It is equally absurd for Mr. Senor to say that the Iraqi government investigation is being led by the Supreme Audit Board, a body originally set up by Saddam Hussein. The only competent Iraqi authority legally capable of deciding on an Iraqi government investigation is the IGC."
- **May 27** – Letter/fax from Mr. Hanks-Drielsma to Congressman Shays re. lack of consultation by CPA with Supreme Audit Board.

Oil for Food Investigation – draft timeline of events regarding the tender process
Prepared by KPMG

Early February, 2004	Claude Hanks-Drielsma approaches KPMG and Freshfields on behalf of the IGC to request them to conduct an investigation into the UN Oil for Food programme, with the ultimate view of making asset recoveries on behalf of Iraq from any parties found to have improperly benefited.
February 25-29, 2004	Preliminary KPMG visit to Baghdad, during which KPMG meets with CPA (Olin Wethington) to discuss investigation. CPA confirms support, and that necessary assistance would be provided.
March 22, 2004	KPMG commence investigation in Baghdad. Commence program of visits to Ministry of Oil, SOMO, Ministry of Trade etc.
March 24, 2004	KPMG make presentation to the Finance Committee of the IGC on its experience, an overview on the Oil For Food programme and engagement objectives. CPA representatives are present at the meeting. CPA advise that they support the investigation in principle, and were willing to make US\$5m available, but required that the contract be awarded following an open tender process
March 26, 2004	IGC issue an invitation to tender to the big four accountancy firms, closing date April 9.
March 30, 2004	KPMG team returns to London to work on IGC proposal.
April 9, 2004	KPMG, together with the law firm Freshfields, submit formal proposal to to Dr Chalabi as chairman of the Finance Committee of the IGC.
Over the weekend of April 10/11, 2004	A CPA solicitation appears on the CPA website inviting bid for similar scope investigation work in relation to the Oil For Food programme, closing date April 24. The scope similar in relation to the investigation work, but without reference to asset recovery work.
April 18, 2004	The Finance Committee of the IGC announce that, following consideration of the proposals received in response to the IGC tender, KPMG and Freshfields had been selected to undertake the investigation. (This decision was subsequently endorsed by the full IGC, but unsure of date of this, probably April 20)
April 19, 2004	KPMG seeks clarification from CPA on status of its solicitation. Reply as follows: <i>"Only the BSA contract is funded and authorized to be awarded by a warranted CPA contracting officer. You are reminded that the BSA RFP closes tomorrow should you wish to propose."</i>
April 20, 2004	KPMG submits proposal to the CPA. This contained one limited scope proposal with a US\$5m budget (ie the amount stated in the tender document) and another at a more realistic budget of US\$20m.
April 25, 2004	CPA advise that negotiations had opened with KPMG on the solicitation. Ask two questions on pricing, and one requesting details on KPMG's concerns regarding terms and conditions.
April 26, 2004	KPMG replies to CPA, addressing issues on pricing and setting out a number of concerns with the terms and conditions including, inter alia, the uncertainties over governing law, indemnification and contracting parties.
April 27, 2004	CPA advise that <i>"negotiations are continuing"</i> and asking KPMG to address further technical points. KPMG respond to request.
April 30, 2004	CPA advise that they intend to award a "time and materials" contract, rather than a fixed price contract, that the US\$5m limitation was no longer
18/06/2004	

Oil for Food Investigation – draft timeline of events regarding the tender process

Prepared by KPMG

rather than a fixed price contract, that the US\$5m limitations was no longer applicable, and that the contract would take 10-12 months, rather than the six months previously specified. KPMG confirm that it would support this increase in effort. CPA also advise that feedback would soon be given on terms and conditions issues.

May 5, 2004	CPA issue revised solicitation. Terms and conditions are amended in some respects. Requests three offers – for \$10m, \$20m and \$30m. Closing date for proposals is May 7.
May 6, 2004	KPMG asks for clarification that the terms and conditions provide the contractor with no indemnity against actions taken against it by third parties (regardless of whether actions arise from contractor's negligence)..
May 7, 2004	The CPA Contracting Officer (LCDR Woody Browne) confirms this and states that he is not supposed to <i>"sign the government up for unknown, unfunded liabilities"</i> and suggests this is raised in the KPMG submission KPMG issues proposals in response to revised solicitations with three offers (\$10m, \$20m, and \$30m).
May 9, 2004	KPMG (Adam Bates) talks on telephone with CPA contracting officer and CPA legal counsel (Mary Clarke) in relation to indemnity issue, and possible insurance cover.
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May 11, 2004	Further call from the CPA contracting officer and CPA legal counsel advising that a decision on the contract would be made probably by May 13 and asking for immediate response on the terms and conditions. KPMG send email setting out remaining concerns in relation to terms and conditions, including on uncertainties regarding the governing law, the indemnity issue and the contracting party. The KPMG email contained suggested drafting changes from Freshfields. CPA reply agreeing only one spelling error and asking KPMG: <i>"Please indicate acceptance or rejection of the CPA terms by 9.00 Baghdad time on 12 May"</i> .
May 12, 2004	Phone conversation with CPA Contracting Officer, KPMG and Freshfields to explain issues again. KPMG email to CPA clarifying that the two main issues on the terms and conditions were lack of clarity on governing law and absence of protection from legal costs in relation to third party actions. Email states: <i>"I am hoping that we can see a way for KPMG to remain in the contest. It would seem inequitable if time pressures outside of these negotiations mean we are unable properly to deal with these issues"</i> . Email from CPA Contracting Officer stating that <i>"negotiations are finished. You refused to agree to the terms and conditions.."</i> KPMG advise that it will protest the decision under Clause 11 (Protests) which allows contractors to protest the terms of the solicitation.

18/06/2004

Oil For-Food Programme

Press Releases

9th December 2003 - 21st May 2004

Index

1.	Call for IGC/KPMG Oil-for-food investigation to continue	3
	21 May 2004	
2.	Is Bremer in violation of UN Security Council Resolution 1483?	5
	20 May 2004	
3.	"New CPA investigation into Oil-for-Food scandal is a smokescreen"	6
	- Advisor to the Iraqi Governing Council	
	13 May 2004	
	Letter sent to Ambassador Bremer from Claude Hanks-Drielsma,	7
	Advisor to the Iraq Governing Council 12 May 2004	
	(Attachment to Press Release 3)	
4.	UK Advisor criticises Ambassador Bremer for delaying Oil-for-Food	9
	investigation	
	11 May 2004	
5.	UN warned to secure all relevant documents in Oil for Food	10
	investigation	
	5 March 2004	
	Copy of letter to Kofi Annan from Claude Hanks-Drielsma	11
	3 March 2004	
	(Attachment to Press Release 5)	
	Content of letter from Mr Claude Hanks-Drielsma, Advisor to Iraq	11
	and Chairman of Roland Berger, Strategy Consultants to	
	Mr Kofi Annan, Secretary-General, United Nations,	
	dated 5 December 2003	
	(Attachment to Press Release 5)	
	United Nations Independent Inquiry, 5 December 2003	13
	(Attachment to Press Release 5)	
6.	Iraqi Governing Council appoints KPMG and Freshfields to	15
	investigate14 UN 'Oil for Food' Concerns	
	20 Feb 2004	
7.	Newly appointed Iraq Advisor calls on UN to Investigate	16
	breaches of the 'Oil for Food programme'	
	09 December 2003	

Call for IGC/KPMG Oil-for-food investigation to continue

21 May 2004

Claude Hanks-Drielsma today spoke out in response to comments made yesterday by CPA spokesman, Mr Senor.

Speaking from London, Mr Hanks-Drielsma said: "It is not only absurd, but a deception of the public, for Mr Senor to suggest that Dr Chalabi was looking to conduct his own private investigation into the oil-for-food scandal. The decision to appoint KPMG was a unanimous decision taken by the Iraq Governing Council. The CPA were present at the meeting when KPMG was appointed. Ambassador Bremer informed the IGC that he would make funds available for this investigation from the Iraq Development Fund."

Mr Hanks-Drielsma added: "It is equally absurd for Mr Senor to say the Iraqi government investigation is being led by the Board of Supreme Audit (BSA), a body originally set up by Saddam Hussein. The only competent Iraqi authority legally capable of deciding on an Iraqi government investigation is the IGC (the most representative body ever in the history of Iraq.) UN resolution 1511 (16 Oct 2003) states that the IGC (and not Ambassador Bremer) constitutes the current Iraqi interim government and embodies the sovereignty of the state of Iraq. The decision by the CPA to appoint the BSA to lead the investigation (without any consultation with the IGC) is yet another smokescreen put up by Bremer to prevent the IGC from continuing with its investigation, uncovering the truth and recovering Iraqi assets."

Quoting from a leading US editorial this week, Mr Hanks-Drielsma said: "Let the KPMG audit continue. Let justice be done."

Note to Editors:

Please find attached a press release from yesterday where Mr Hanks-Drielsma addressed the legal issues associated with the CPA's actions:

Claude Hanks-Drielsma, British advisor to the Iraq Governing Council (IGC) confirmed today that legal advice received suggests that Ambassador Bremer's refusal to recognise the IGC's request for disbursements to allow the continuation of the IGC-sponsored investigation into the misappropriation of Oil for Food monies violates both CPA Regulation #2 as well as UN Security Council Resolution 1483.

This advice was sought following the decision of Ambassador Bremer to commission a third investigation into the Oil-for-food scandal rather than release funds to allow the IGC-led KPMG/Freshfields investigation to continue. The IGC investigation started in February and is largely credited for bringing the scandal to public attention in the first place. The decision to appoint KPMG was unanimously endorsed by the IGC. The CPA

Is Bremer in violation of UN Security Council Resolution 1483?

20 May 2004

Claude Hanks-Drielsma, British advisor to the Iraq Governing Council (IGC) confirmed today that legal advice received suggests that Ambassador Bremer's refusal to recognise the IGC's request for disbursements to allow the continuation of the IGC-sponsored investigation into the misappropriation of Oil for Food monies violates both CPA Regulation #2 as well as UN Security Council Resolution 1483.

This advice was sought following the decision of Ambassador Bremer to commission a third investigation into the Oil-for-food scandal rather than release funds to allow the IGC-led KPMG/Freshfields investigation to continue. The IGC investigation started in February and is largely credited for bringing the scandal to public attention in the first place. The decision to appoint KPMG was unanimously endorsed by the IGC. The CPA was present during IGC's deliberations concerning an award of the contract to recover the Oil for Food monies.

The advice makes clear that both the CPA Regulation and the UN Resolution require that any disbursement out of the Iraq Development Fund are made in consultation with the Iraq interim administration. The failure by Ambassador Bremer to consult with the IGC before awarding a contract for a third investigation to Ernst & Young was therefore in violation of both provisions.

Mr Claude Hanks-Drielsma said: "This opinion suggests that Ambassador Bremer's conduct is not only unacceptable but may also be contrary to U.N. Resolution 1511 (16 October 2003) which determined that the IGC constitutes the current Iraqi interim administration and embodies the sovereignty of the State of Iraq."

Mr Hanks-Drielsma added: "Iraq is determined that the KPMG/Freshfields investigation will continue as soon as the funds are released from the Iraq Development Fund. Washington law firm, Patton Boggs LLP will assist KPMG and Freshfields in their report and also in the recovery of funds misappropriated under the Oil for Food programme."

For more information please contact Jennifer Morgan on +44 207 861 8609 or +44 7909975039

"New CPA investigation into Oil-for-Food scandal is a smokescreen" - Advisor to the Iraqi Governing Council
13 May 2004

Mr Claude Hanks-Drielsma, advisor to the Iraq Governing Council (IGC) today denounced the decision taken by Paul Bremer to appoint Ernst & Young to conduct a separate CPA (Coalition Provisional Authority) -led investigation into the United Nations Oil-for-Food scandal. This was done without any consultation with the IGC and in spite of the fact that the IGC had already appointed KPMG and Freshfields to investigate the matter; a decision which was unanimously endorsed by the Iraq Governing Council after a proper due process of tender which included members of the CPA.

Mr Claude Hanks-Drielsma said "It is totally unacceptable for the CPA to attempt to undermine the sovereignty of the IGC on this matter. The oil-for-food scandal directly affected the Iraqi people as it helped to finance and enrich Saddam Hussein's regime of terror for many long years. It is now only right and proper for the investigation into this matter to be conducted for the people by the people. This is completely outside the limits of power for an occupying force, made worse by the complete failure by the CPA to consult with the Governing Council."

"This new investigation (which is being paid for by the Iraqi people) is a smokescreen - it is clearly politically motivated and has the purpose of creating confusion and further delay."

"The Council is determined to carry out its responsibilities and will continue with its investigation in order to reveal to the world the true extent of the corruption behind the programme and the scale of the smuggling that took place outside the programme. The remit of the Iraq Governing Council investigation includes tracing and recovering of hundreds of millions of US dollars still held overseas."

Mr Hanks-Drielsma described the conduct of Ambassador Bremer in this matter as "totally unacceptable". He added: "I hope that common sense will prevail and Iraqi funds from the Iraq Development Fund be released for the work initiated by the Finance Committee of the Iraq Governing Council."

Note to Editor: (Ref CHD letter)

Letter sent to Ambassador Bremer from Claude Hanks-Drielsma, Advisor to the Iraq Governing Council, 12 May 2004

Dear Ambassador Bremer

I am writing to you to express my concern and strong disappointment that the CPA has still not released the necessary funds to allow the KPMG investigation into the UN Oil-for-Food scandal to continue. This is in spite of the assurances that you gave at earlier meetings that the investigation would receive the necessary funding. It is essential that the IGC is allowed to continue with its investigation without any further delay and without any further stalling by the CPA and I therefore call on you immediately to release the necessary funds from the Iraq Development Fund i.e. Iraqi money.

I understand that you are due to announce a separate CPA investigation into the Oil-for-Food programme. Given that there are already two investigations underway - one under the auspices of the IGC and the other under the auspices of the UN - this is likely to cause considerable confusion and concern. One initiated by the IGC (wide-ranging terms of reference including tracing and recovering of assets or claims) and the other subsequently announced by the UN (which will focus on the UN's role). I would therefore be glad if you would clarify the matter by providing answers to the following questions:

1. Why does the CPA feel it is necessary to conduct a third investigation into the Oil-for-Food programme?
2. What will be the remit of the CPA investigation and precisely how will it be different to the IGC investigation started by KPMG?
3. Why is it proposed to start another investigation from scratch, when the KPMG investigation is already underway? (If it had not been for the CPA stalling the KPMG investigation, Phase One of their report would have been ready next month.)
4. Is it correct that the CPA investigation will also be paid for out of Iraq Development Fund - i.e. paid for by the Iraqi people?
5. Can you explain why the budget set aside for the CPA-backed investigation is many times the budget suggested by you to the IGC for the KPMG investigation?
6. Also, why do you believe that the Iraqi people should be funding two separate investigations into the matter?
7. Why have you and the CPA completely failed to consult with the Iraq Governing Council on this matter when you were fully informed of the Finance Committee of the IGC's decision to appoint KPMG and had representation of the CPA present at all meetings of the Finance Committee of the IGC and the IGC? And as you must be fully aware that the Governing Council unanimously endorsed the decision by the Finance Committee to appoint KPMG

8. Do you agree with the view held by Iraqi citizens as well as by many in the US government and expressed to me in a letter from Congressman Christopher Shay who chaired the Congressional Committee looking into this scandal, that the role of the Iraq Governing Council "is crucial to getting at what went wrong in the (UN Oil-for-Food) program."

You should not be surprised if your separate investigation creates confusion and concern and is widely perceived as being politically motivated, with the intention of further delaying matters.

I look forward to receiving your responses to these questions.

UK Advisor criticises Ambassador Bremer for delaying Oil-for-Food investigation

11 May 2004

Claude Hanks-Drielsma, British advisor overseeing the the Iraq Governing Council's investigation into the UN Oil-for Food scandal, today called on the Coalition Provisional Authority (CPA) immediately to release the necessary funds to allow the investigation to continue.

Speaking today from London, Mr Hanks-Drielsma said: "We are very disappointed to see that the CPA are stalling on this issue, despite having assured us at earlier meetings that the investigation would receive the necessary funding from the Iraq Development Fund. Time is critical and the delay is undermining the Iraq Governing Council's efforts to get to the truth via an independent and rigorous investigation carried out by two leading international professional firms."

It was the IGC that first brought this scandal to world attention and the UN was forced to hold its own investigation into the matter. Mr Hanks Drielsma added: "It is essential that the IGC be allowed to continue with its investigation and my concerns are shared by many in the US Government. I have just received a letter from Congressman Christopher Shays, who chaired the Congressional Committee looking into this scandal in which he states: "The role of the Iraq Governing Council and your efforts on their behalf are crucial to getting at what went wrong in the (UN Oil-for-food) program." "

KPMG and Freshfields were originally appointed by the IGC with the remit to establish whether and to what extent people violated and profiteered from the UN Oil-for-food programme or flaunted UN sanctions as well as whether the UN administered the Oil-for-food programme effectively. The appointment was made by the Finance Committee of the Iraq Governing Council and members of the CPA were present at that meeting. The decision was unanimously endorsed by the Iraq Governing Council as a whole.

However, the investigation has now been on hold as Ambassador Bremer has not yet released funding from the Iraq Development Fund to cover the costs of completing the investigation. "As a result," says Mr Hanks-Drielsma, "phase one of the report which would have been ready in June will now be delayed by at least two months. I therefore call on Ambassador Bremer to release the funds immediately so that this crucial investigation is allowed to proceed without further delay."

Mr Hanks-Drielsma's testimony on Oil-for-food to the US Congress is attached.

For further information, please contact Jennifer Morgan on +44 207 861 8609 or +44 7909 975039 or jmorgan@bell-pottinger.co.uk.

UN warned to secure all relevant documents in Oil for Food investigation

Kofi Annan, the UN Secretary General, has been asked to give his full co-operation to an independent investigation into the UN administered Iraq Oil for Food Programme.

The investigation is being carried out by KPMG (the international firm of auditors) and Freshfields Bruckhaus Deringer (the leading firm of lawyers) at the request of the Iraqi Governing Council (IGC).

In a forthright letter to the Secretary-General, Claude Hanks-Drielsma, Advisor to the IGC, asked for confirmation that the UN has taken steps to secure all relevant documents relating to the Programme. Mr Hanks-Drielsma warns in his letter that, given the possibility that UN officials might have been implicated, there clearly is a serious risk that evidence might be destroyed.

Mr Hanks-Drielsma goes on to make it clear in his letter that this issue goes to the heart of the UN's credibility in Iraq and therefore any future role of the UN.

Mr Hanks-Drielsma also spells out in his letter the scale of the corruption being investigated. "It will not come as a surprise if the Oil for Food Programme turns out to be one of the world's most disgraceful scams and an example of inadequate control, responsibility and transparency, providing an opportune vehicle for Saddam Hussein to operate under the UN aegis to continue his reign of terror and oppression."

For more information, please contact Jennifer Morgan on 07909 975 039 or 020 7861 8609 or email jmorgan@bell-pottinger.co.uk

COPY OF LETTER TO KOFI ANNAN FROM CLAUDE HANKES-DRIELSM

To: Mr Kofi Annan, Secretary General, United Nations c/o Mr Hans Corell, Under Secretary for Legal Affairs and Legal Counsel of the United Nations

From: Claude Hanks-Drielsma
Advisor to Iraq

3 March 2004

Oil for Food Programme

I wrote to you in December urging the UN to set up an independent commission to investigate the Oil for Food Programme.

This is to formally notify you that Iraq has asked KPMG (the international firm of auditors) and Freshfields Bruckhaus Deringer (the leading firm of lawyers), to prepare an independent report which will be presented to the Governing Council of Iraq who will decide what action is to be taken.

I have today returned from Baghdad and work on the report has begun. Maximum resources will be engaged to ensure that phase one of the report will be completed as soon as possible. The CPA is fully informed. We hope that the UN will fully cooperate with those preparing the report and make available any records as requested. The Iraq Government Audit Department will also be engaged.

Could you possibly confirm whether the UN has taken any precaution to secure all relevant documents? If this has not been done, might this not have been appropriate action, given the possibility that officials in the UN might be implicated, to ensure that no relevant documents or evidence are destroyed either in the UN or at any of its agents such as BNP etc?

We shall all await the report, but feel I must alert you that based on the facts as I know them at the present time, the UN failed in its responsibility to the Iraqi people and the international community at large. The UN should not be surprised that the Iraqi people question the UN's credibility at this time and any future role for the UN in Iraq. It will not come as a surprise if the Oil for Food Programme turns out to be one of the world's most disgraceful scams and an example of inadequate control, responsibility and transparency, providing an opportune vehicle for Saddam Hussein to operate under the UN aegis to continue his reign of terror and oppression.

I will be in New York and Washington on Monday and Tuesday 8th and 9th March and would be available to meet with you personally, if you felt that such a meeting could be helpful. It would be an opportunity for me to explain in more detail some of the relevant issues.

Content of letter from Mr Claude Hanks-Drielsma, Advisor to Iraq and Chairman of Roland Berger, Strategy Consultants to Mr Kofi Annan, Secretary-General, United Nations, dated 5 December 2003

I am in Baghdad this week to help and advise Ministers of the Governing Council. I made a courtesy call to Sir Jeremy Greenstock, offered to see Mr Bremer but his schedule did not allow. I had no formal meetings with the CPA but my path has crossed several of its members.

As a result of my findings here, combined with earlier information, I most strongly urge the UN to consider appointing an independent commission (to perhaps include a QC and a top accountant) to review and investigate the "Oil for Food Programme". The purpose being to identify and bring to account those that violated and profited by it or flaunted UN sanctions and in certain cases, I suspect, profiteer because and through sanctions. Were the UN to undertake this they would take the moral high ground and the initiative in demonstrating to the world that those guilty will be brought to account. It would be a most powerful message for the future.

Failure to do so might bring into question the UN's credibility and the public's perception of it.

The UN might also consider what action it can take with those countries not acting in good faith at the present time and with funds still held resulting from the "Oil for Food Programme."

My belief is that serious transgressions have taken place and may still be taking place.

A further issue which needs serious consideration and on which I would welcome an early discussion with you is how any debt which might have been incurred by Iraq post UN sanctions or made to rogue nations should be treated. This would be a further opportunity to send a powerful message for the future.

I look forward to your response and to meeting you again soon.

TO: Mr Hans Corell, Under Secretary For Legal Affairs and Legal Counsel of the United Nations for: The Secretary General

Copy to : The Iraq Governing Council; The Foreign Secretary, Mr Jack Straw, co Mr John Buck, Director, Iraq at the Foreign Office.

FROM: Claude Hanks-Drielsma, Advisor to Iraq and Chairman of Roland Berger UK

Stanford Place
Faringdon
Oxon SN7 8EX
England.

Urgent

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Fax: 01367 242853

E-mail: office@stanfordplace.com <<mailto:office@stanfordplace.com>>

UNITED NATIONS INDEPENDENT INQUIRY

Dear Mr Corell,

Further to our conversation at the request of The Secretary General in response to my fax to him dated 5th December, I am now in a position to respond. There is information which I was not in position to refer to when we spoke.

The areas which need urgent investigation should include:

1. Oil for Food Program
 - a. Indications are that not less than 10% was added to the value of all invoices to provide cash to Saddam Hussein (as much as \$4 billion). If so, why was this not identified and prevented? Was the UN alerted to this at any stage? What action was taken and who was made aware of this allegation ?
 - b. The UN received a fee of 2% of the value of all transactions to administer the program (as much as 1.1 Billion US Dollars). What method was put in place by the UN to insure inspection of the quality of food?
 - c. What controls were in place to monitor BNP (the bank in France) who handled the bulk of LC's, the total value of which may have in the region of 47 billion US\$. What exchange rates were applied by BNP and why were payments converted into Euros and then back into US\$?

- d. The Role of Jordanian Banks such as Jordan National Bank, Arab Bank and Housing Bank: Have there been a proper independent audit of all transactions and a proper accounting of all funds? Are these banks still holding funds, if so how much, why and how is this monitored ? Was there a link between these banks and The Iraq Secret Service or any other part of the Saddam Hussein system?
- e. Who at the UN carried overall responsibility for the Oil for Food program? Could there have been any link, directly or indirectly, with Saddam Hussein or his middle men?
- 2. UN approval of Oil Contracts under the above program
 - a. Why did the UN approve oil contracts to non-end users? And without knowing at what price?
 - b. A list of some of these contracts has been published by an Arab News Paper (this list which is known to me). It demonstrates beyond any doubt that Saddam Hussein bought political and other support under the aegis of the UN. In this list a "Mr. Sevan" is shown as receiving crude oil by this method through Panama.
 - c. VERY SIGNIFICANT SUPPLIES OF CRUDE OIL MADE TO NON-END USERS WERE TO OR TO THOSE LINKED TO INDIVIDUALS WITH POLITICAL INFLUENCE IN MANY COUNTRIES INCLUDING FRANCE AND JORDAN. WHAT METHOD OF CONTROL AND TRANSPARENCY OVER SALES DID THE UN REQUIRE?

I again urge the UN Secretary General to immediately appoint an independent commission.

Yours Sincerely

Claude Hanks-Drielsma

IRAQ GOVERNING COUNCIL APPOINTS KPMG AND FRESHFIELDS TO INVESTIGATE UN 'OIL FOR FOOD' CONCERNS

20 Feb 2004

In response to press enquiries, Mr Claude Hanks-Drielsma, advisor to the Iraq Governing Council (IGC) and also Chairman of Roland Berger Strategy Consultants Ltd, confirmed today that the IGC has appointed the international accountancy firm KPMG and the law firm Freshfields Bruckhaus Deringer to prepare an independent review and report for the IGC on the UN Oil for Food program. On December 5, 2003 and February 1, 2004, Mr Hanks-Drielsma, in his capacity as advisor to the IGC wrote to the UN suggesting to the Secretary General appointing an independent commission to investigate a series of concerns raised by the IGC and relating to the management and administration of the program by the UN. The UN received in the region of US\$1bn to administer the Oil for Food program.

On completion, the KPMG/Freshfields report will be presented to members of the IGC and the appropriate ministries in Iraq. The IGC trusts that the UN will fully cooperate and make available any information as required by KPMG and/or Freshfields. Member countries of the UN are understood to have indicated that they would expect the UN to assist in such a review and to assist with total transparency.

Speaking today in London, Mr Hanks-Drielsma said: "The concerns and questions put to the UN are serious and warrant an independent investigation by the UN. We will hope that the UN will appoint an independent commission and acknowledge the seriousness of the concerns and act accordingly. In the meantime, the IGC has taken the decision to conduct its own independent enquiry through KPMG and Freshfields."

For further information or an interview with Claude Hanks-Drielsma, please contact Jennifer Morgan on 07909 975 039.

NEWLY APPOINTED IRAQ ADVISOR CALLS ON UN TO INVESTIGATE BREACHES OF THE 'OIL FOR FOOD' PROGRAMME

09 December

In his first act as the newly appointed advisor to the Iraq Governing Council (IGC) Mr. Claude Hanks-Drielsma has written to Kofi Annan, the United Nations Secretary General, urging him to appoint an independent commission to review and investigate the "Oil for Food Programme". He believes that serious transgressions have taken place.

The purpose of the investigation would be to identify and bring to account those that violated and profited through the "Oil for Food Programme" or used it to flaunt United Nations sanctions.

Speaking from London on his return from Baghdad, Mr Hanks-Drielsma said: "The UN needs to undertake this investigation - to take the moral high ground and the initiative in demonstrating to the world that those guilty will be brought to account. It would send out a most powerful message. Failure to address this issue would undermine the credibility of the UN, not least with the people of Iraq."

The "Oil for Food Programme" ran from 1996 to November 2003, during which \$47bn (US) went through the programme. The UN was responsible for overseeing the programme for which it received fees of approximately \$1.1bn (US). In his letter, Mr Hanks-Drielsma also asked that the UN consider what action it can take with those countries not acting in good faith at the present time and with funds still held resulting from the "Oil for Food Programme".

Mr Hanks-Drielsma, who is widely regarded as having masterminded the solution to the South Africa debt crisis, asked that the UN consider the issue of how to treat the debt incurred by Iraq post UN sanctions and, more generally, how loans made to rogue nations might be treated.

For more information or to arrange an interview with Mr Hanks-Drielsma, please contact Jennifer Morgan on 07909 975 039 or 020 7861 8609 or email jmorgan@bell-pottinger.co.uk

Note to Editors

Claude Hanks-Drielsma

Mr Hanks-Drielsma has today accepted the role as advisor to the IGC.

He has also recently been appointed Chairman at Roland Berger Strategy Consultants, the largest non-US consultancy firm.

He has dealt with a number of major international debt crises, including the highly political and sensitive debt crisis between South Africa and creditor banks.

Together with Sir Alan Walters he chaired the Advisory Committee to Jordan on Economic Policy in the aftermath of the first Gulf War.

He is a former Chairman on the Management Committee at Price Waterhouse and Partners, with world-wide responsibility for international strategic issues and direction. It was Mr Hanks-Drielsma who recommended the division between audit and consultancy as he perceived the serious conflict of interest in 1986.

Mr Hanks-Drielsma is also Chairman of the Windsor Leadership Trust

FROM:

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England	

TO: The Honorable Christopher Shays

FAX: 001 202 225 3974 No of pages including this cover - 5

FROM: Claude Hanks-Drielsma

DATE: 27 May 2004

COPY: KPMG, Mr Adam Bates
Patton Boggs, Mr Read McCaffery

I am most grateful to you for your office having sent me the copies of the letters to Ambassador Bremer, his response and your subsequent letter.

One issue which concerns me is that in Ambassador Bremer's letter (it appears having been received by you on 19 May) he states in the second paragraph:

"Thus we are supporting the BSA as it oversees an investigation to be conducted by an internationally recognized accounting and auditing firm selected by the BSA through an open, competitive process."

In the responses from Ambassador Bremer to your questions on Page 3, it states under g.

"In addition, the BSA conducted a full and open competition to select an internationally recognized accounting and auditing firm to perform an independent audit, investigation and accounting of the conduct and management of the OFF program."

I have been informed that the Board of Supreme Audit had established 3 committees:

1. To set the terms of reference of the investigation;
2. To open the bid;
3. To review the terms.

To the best of my knowledge these committees never met to discuss what they were meant to be addressing, were given no knowledge of the CPA tender or their decision i.e. the CPA were simply speaking in their name and the Acting Director of the Audit Board was asked to sign approving the CPA award without prior knowledge or participation in the process. Therefore none of the procedures of the Board were followed. If this is indeed the case, the response from Ambassador Bremer to you and a letter I received in response from General Counsel as per enclosed, would at best be economical with the truth.

Furthermore, the letter to me dated 15 May does not address my question and fails to recognise the time-line and the fact that the CPA were fully aware of the decisions taken by the Governing Council.

I am preparing a more detailed time-line of events in conjunction with KPMG and as soon as this is finalised I will email it to your office.

CENTER ON INTERNATIONAL ORGANIZATION
SCHOOL OF INTERNATIONAL AND PUBLIC AFFAIRS
COLUMBIA UNIVERSITY

Edward C. Luck
Director
Professor of Practice in
International and Public Affairs

May 19, 2004

Hon. Christopher Shays
Chairman
House Subcommittee on National Security,
Emerging Threats, and International Relations
Room B-372 Rayburn Building
Washington, D.C. 20515

Dear Chairman Shays:

Thank you for your letter of April 30th and for the opportunity to testify before your Subcommittee last month on the oil-for-food program. I was impressed by your determination to get to the bottom of these murky and messy matters.

As requested, attached is a copy of the chapter by Peter van Walsum, former Dutch Permanent Representative to the UN and Chairman of the 661 sanctions committee in 1999-2000. This is the piece I had referred to in my testimony. It provides an unusually candid account of the state of the politics in the Security Council on these questions during those critical years.

If there is any other way that I can be of assistance to your inquiry, please let me know. With all best wishes for every success in your efforts.

Sincerely,



cc: Thomas Costa

Enclosure

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267

The UN Security Council

FROM THE COLD WAR TO THE 21ST CENTURY

EDITED BY
DAVID M. MALONE



BOULDER
LONDON

2004

The Iraq Sanctions Committee

PETER VAN WALSUM

On December 11, 1998, I arrived in New York to take up my duties as Dutch permanent representative. The Netherlands had been elected to the Security Council for the two-year term beginning on January 1, 1999. The instructions I had been given were mostly of a general nature, but a more specific one concerned the chair of the Iraq sanctions committee. The Hague had asked me to be available, should the Security Council wish to appoint me to that office. Five days after my arrival the United States and the United Kingdom launched their air strikes against Iraq, codenamed Desert Fox. The immediate cause for this action was Iraqi obstruction of the UN Special Commission (UNSCOM), but the Clinton administration had recently also begun to speak of the desirability of a "regime change" in Iraq. That, however, was not the acknowledged objective of the operation. In all the official statements emanating from Washington and London it was emphasized that the strikes were aimed at degrading Saddam Hussein's weapons of mass destruction (WMD) program and related delivery systems. It was only after the cessation of the operation, on December 19, that I heard President Clinton first reiterate that the United States would continue to contain and constrain Saddam Hussein and then add: "while working toward the day Iraq has a government willing to live at peace with its people and with its neighbors." If that meant regime change, it was remote enough. I felt there could be no doubt that at least this brief military action had been only about weapons of mass destruction.

Some History

The sanctions against Iraq were imposed in response to that country's invasion and occupation of Kuwait on August 2, 1990 (Resolution 661).¹ Essentially, they prohibited the import of Iraqi goods into all states, which in practice meant oil and oil products, and the sale or supply of all products

to Iraq except for supplies strictly intended for medical purposes and, in humanitarian circumstances, foodstuffs. As a means to bring about an Iraqi withdrawal from Kuwait they were unsuccessful, but once the Gulf War (Desert Storm) had achieved that objective, the sanctions were left in place to force Iraq's full compliance with the cease-fire conditions, especially with regard to the destruction, removal, and rendering harmless of Iraq's weapons of mass destruction (Resolution 687). During the Gulf War most of Iraq's power plants, oil refineries, pumping stations, and water treatment facilities had been destroyed, and the sanctions regime had the effect of further aggravating the resulting economic hardship. Before long this led to a humanitarian crisis, which the Secretary-General brought to the attention of the Security Council in the Ahtisaari Report of March 20, 1991. In response, it was agreed that the UN should develop a plan for using Iraqi oil revenues to finance humanitarian relief. In August and September 1991 respectively, the Security Council adopted Resolutions 706 and 712 establishing the oil-for-food program. This provided for the sale of a predetermined maximum volume of Iraqi oil under the supervision of the UN; purchasers would pay directly into a UN-controlled escrow account, which would be used to pay for UN-approved purchases of foodstuffs, medicines, and materials and supplies for essential civilian needs.

Both resolutions were, however, rejected by Iraq, which claimed that the proposed procedures were a violation of its sovereignty. In April 1995 the Security Council made a concession to these Iraqi concerns by adopting Resolution 986, which gave Baghdad primary responsibility for the distribution of humanitarian goods with the exception of the Kurdish areas in the north, where distribution was kept under direct UN control. In May 1996 Iraq finally accepted the program, but preparations for its implementation were interrupted in August 1996 when Iraqi military forces marched into the Kurdish zones. This led to further delay, but in December 1996 Resolution 986 officially came into force, and food and medicine began to be delivered in the first months of 1997. Henceforth, the most comprehensive coercive economic measures ever devised by the UN were tempered by the largest humanitarian relief operation in the UN's history.

The other leg of the UN's containment policy was the inspections regime. Resolution 687 of April 3, 1991, formalized the cease-fire agreement ending the Gulf War, under which Iraq had agreed to the destruction of all its chemical and biological weapons and all its ballistic missiles with a range greater than 150 kilometers, as well as to the removal of all its nuclear-weapons-usable materials. The supervision of these operations was entrusted to UNSCOM, established by that same resolution, and the International Atomic Energy Agency (IAEA) respectively. The resolution contained a precise timetable for the successive steps to be taken in this context, according to which the entire disarmament process would be com-

pleted within four months and would then give way to a system of ongoing monitoring and verification. Had Iraq opted for compliance, it would have returned to normalcy before the end of 1991. Instead, it resorted to a practice of systematic concealment and deception, which caused the inspections and the sanctions to remain in force for much longer than had originally been envisaged. In spite of this, the inspectors scored some remarkable successes in the detection and destruction of Iraqi stocks and facilities related to its chemical, biological, ballistic missile, and nuclear weapons programs. By 1997, however, Iraq seemed so emboldened by the growing division in the Security Council—and especially among the permanent five—that it resorted to ever more active obstruction of the work of UNSCOM. In 1998 this gave rise to growing tension, finally resulting in the U.S.-British air strikes against Baghdad in December of that year. The inspectors, who had been withdrawn just before this operation, were then formally banned from returning to Iraq.

The Rules and Constraints of Sanctions Committees

Whenever the Security Council imposes sanctions it also creates a sanctions committee. The main duty of a sanctions committee is to grant or deny exemptions. A sanctions committee has the same composition as the Security Council itself—that is, it comprises the same fifteen member states, normally represented at sub-deputy permanent representative level. It is chaired by a permanent representative of a nonpermanent member, appointed by the Security Council and serving in his personal capacity. The latter provision is so strictly adhered to that the chairman of a sanctions committee cannot even ask his deputy permanent representative to stand in for him. If he is unable to chair a meeting himself, he will have to call on one of two other permanent representatives, also appointed—as deputy chairmen of equal standing—by the Security Council. The personal-capacity rule underlines the fact that the chairman receives his instructions only from the Security Council, not from his authorities as he does when he sits on the Security Council proper. The difference with the Security Council is that a sanctions committee is chaired by someone who is elected for a whole year and usually reelected for the second year that his country is a nonpermanent member of the Security Council. Another difference is that in diplomatic rank this chairman is usually senior to the other committee members. On the face of it, all this would seem to invest the chairman with some power, but the elaborate system only obscures the fact that in a sanctions committee the permanent members are even more dominant than in the Security Council.

This is partly due to the absence of a decisionmaking machinery. Nothing gives the nonpermanent members of the Security Council more

power than the rule that a resolution needs nine positive votes to be adopted. It is a very modest compensation for the blocking power held by each permanent member, but the resulting complexity at least leaves the president of the Council some room to maneuver and encourages him to use his skills to try and produce a broadly supported decision even in controversial matters. In the Council, a unanimous view is often reached under the threat of a vote. In a sanctions committee there is nothing of the sort. Decisions are taken on the basis of consensus. If there is no consensus, there is no decision. One might also put it this way: on a sanctions committee all fifteen members have the right of veto. A little bit of arithmetic teaches us that a sanctions committee must be about three times as inflexible and irresolute as the Security Council itself.

The Iraq Sanctions Committee: A Political Minefield

Iraq's preoccupation with weapons of mass destruction clearly was the key to everything that was happening to that country. This also applied to the weapons inspections and the sanctions regime. It occurred to me that although these had the same objective, they were perceived quite differently. The UNSCOM weapons inspectors had in fact been rather popular with the media. They had after all provided some entertainment with the cat-and-mouse game they had been engaged in with the Iraqi authorities. The sanctions regime, by contrast, was seen as a cruel and vindictive operation, responsible for all the suffering of the Iraqi people. But then, the sanctions had never been meant to last for more than half a year at most, and if almost a decade later they were still there, it was only because for all these years the weapons inspectors had been unable to give Iraq a clean bill of health. Now UNSCOM had been withdrawn—never to return, as it turned out—but the sanctions stayed in force. It was to be expected that henceforth the Iraq sanctions committee would take all the flak.

These reflections did not add to my eagerness to be appointed chairman of that committee, but I consoled myself with the thought that the weapons inspectors had been beaten by all the lies, deception, and active obstruction they had encountered, whereas the sanctions regime, despite all the juggling and smuggling, had been moderately successful in keeping the big oil money out of Saddam Hussein's hands.

The Netherlands joined the Security Council on January 1, 1999. Apart from my appointment as chairman of the Iraq sanctions committee, almost two weeks went by without Iraq even being mentioned. When by the middle of the month the problem of Iraq was broached for the first time since Desert Fox, the impasse appeared to be just as complete as it had been a month earlier. It was clear that a great deal of work needed to be done

before the Council would be able to recover a modicum of consensus on how to deal with Iraq. This left me without much guidance as chairman of the sanctions committee. All I could do was faithfully implement the existing Security Council resolutions, which I did by signing piles of import authorizations, ceaselessly submitted to me by the Office of the Iraq Program at the UN Secretariat. The stalemate at the Council level gave my collaborators and me some time to reflect on the sanctions regime and ask ourselves what we were going to do with it. The sanctions regime was meant to keep Iraq's enormous potential oil revenue out of the hands of a dictator who over the years had displayed an obsession with weapons of mass destruction. The oil-for-food program, accepted by Iraq only after years of dillydallying, was meant to limit the impact of the sanctions on the civilian population, but it was clear that in spite of this, the sanctions caused a great deal of what in a military action would be termed "collateral damage." We concluded that our best course of action was to try to find new ways to reduce this unintended effect.

An immaterial form of collateral damage presented itself when I found that the sanctions regime had so far prevented most ordinary Iraqis from performing the Hajj, the pilgrimage to Mecca, which is a religious duty for every Muslim. That, at least, was the way the problem was put to me by the permanent representative of Iraq, Ambassador Saeed Hasan. Other colleagues dismissed this version and pointed out that Iraq had been offered a perfectly practicable voucher system, under which adequate oil-for-food funds would be allocated for this purpose and made available to the pilgrims in the form of vouchers or traveler's checks. Under the relevant Security Council resolutions the United Nations was not allowed to deposit the required funds with the Iraqi central bank. Hasan confirmed the existence of this proposal but added that Baghdad had never considered it a serious offer, as the proposed arrangement would have offended the dignity of Iraq. As we discussed this, it became clear to me that there was no time left to draft an alternative arrangement for the March 1999 Hajj season, but I made up my mind to start earlier the next year and then insist that the whole committee think along and actively join in the planning of an arrangement that would reconcile the Fifth Pillar of Islam, the relevant Security Council resolutions, and the dignity of Iraq.

In the context of our discussions on the Hajj problem, Ambassador Hasan expressed the wish that I visit Iraq to see things for myself. He reminded me of a provision in a Security Council document that stipulated that every chairman of a sanctions committee should at least once visit the country to which the sanctions in question applied. I replied that I would be glad to comply, and we agreed to remain in touch about a suitable date.

The Amorim Panels and Resolution 1284

Meanwhile the Security Council had begun to search for a new approach to its relationship with Iraq. At the suggestion of Canada, it established three panels to be chaired by the permanent representative of Brazil, Ambassador Celso Amorim. These panels produced three sets of recommendations regarding, respectively, disarmament, humanitarian matters (sanctions), and the issues of persons missing after the Gulf War and stolen Kuwaiti property (in particular the state archives). The recommendations of the latter two panels were mostly uncontroversial and several of them in some form or another found their way into what was to become Resolution 1284. Those of the humanitarian panel were mainly aimed at increasing the financial resources of the oil-for-food program, an objective that no delegation could object to. Regarding the recommendations of the disarmament panel, things went less smoothly. The essence of the recommendations regarding the disarmament of Iraq in the field of weapons of mass destruction was the conclusion that conditions now existed for shifting the focus of the UN effort from dismantling Iraq's WMD capacity to ensuring that Iraq would not rebuild that capacity (through a system of what was called "reinforced ongoing monitoring and verification"). Another conclusion of the panel was that any new monitoring system should be acceptable to Iraq. Russia, France, and China proposed to follow this line. Other delegations, including mine, stressed the need for preserving the original disarmament standards for Iraq and felt that the terms of reference of the weapons inspectors could not be made contingent on Iraq's approval.

In April 1999 the Netherlands joined the United Kingdom in submitting a first draft for a comprehensive ("omnibus") resolution aimed at setting the relationship between Iraq and the Security Council on a new footing. Given the politically charged nature of the issue, however, it was soon decided that the permanent five would first try to reach a consensus on the draft, with the result that for almost the entire second half of the year the elected ten had to rely on monthly briefings by the UK delegation for information on progress in the ongoing consultations (see Chapter 14). As was to be expected, it was exceedingly difficult to draft a text acceptable to all delegations. Russia and China never held out any real hope of being able to vote for the British draft unless it incorporated more of the Amorim recommendations, but France made several constructive suggestions—such as mere notification of contracts involving items related to food, health, agriculture, and education, and approval of contracts for petroleum-related spare parts by independent experts—which the UK was only too willing to take onboard. By November, after the permanent five had been in conclave for nearly six months, the elected ten began to grumble, and on December 17, 1999, the UK finally put the draft resolution to the vote. As expected, Russia, China, and Malaysia abstained, but many found it disappointing to

see France abstain as well. France claimed that a consensus had been within grasp but that the United States and the United Kingdom had been unwilling to allow the talks more time. Considering that the permanent five had monopolized the drafting process for more than half a year, this did not convince many elected members. In retrospect, all there may be to say about the French abstention on Resolution 1284 is that it was consistent. On October 23, 1997, France had begun to vote with Russia and China, when it abstained on Resolution 1134 condemning Iraq for its obstruction of UNSCOM, and it has done so ever since. As a result, the divide that ran through the permanent five, separating France, Russia, and China from the United States and the United Kingdom, became a permanent feature of the Security Council's business with Iraq.

Administering the Oil-for-Food Program

All the while, the sanctions committee had been administering the oil-for-food program in accordance with Resolution 986 (1995). In the new year, that work continued on the basis of the new resolution. Due to the abstention of three of the five permanent members, Resolution 1284 did not have the intended effect of reestablishing the authority of the Security Council (Iraq had immediately rejected it), but it did introduce several practical improvements. Thanks to the new resolution, for example, there were virtually no restrictions on the import of food and medicines any longer, and the ceiling on the volume of Iraqi oil exports for humanitarian purchases had been removed. If the sanctions nevertheless continued to cause severe hardship, this was due on the one hand to the economic stagnation, dating back all the way to the Iran-Iraq War but greatly exacerbated by the Gulf War and the ensuing sanctions, and on the other hand to the intractable dual-use problem. Any delegation that suspected that goods Iraq ostensibly wished to import for peaceful purposes could also be used for the manufacture of weapons of mass destruction could place a hold on the contract in question pending further investigation. In fact, every delegation was expected to do so, but in practice only the United States, and to a lesser extent the United Kingdom, actively discharged that duty. Other delegations were either lukewarm about the sanctions regime or did not see much point in applying their limited resources to a job that would be done anyway—and so much more thoroughly—by the United States.

By far most of the criticism provoked by the sanctions regime during my two-year tenure was related to these *holds*. Due to the complexity of many contracts it often happened that suspicion raised by one product led to a hold on a large composite contract that for the greater part concerned the import of obviously harmless goods. As some of these were often of pivotal importance to the Iraqi infrastructure, the holds could have a devas-

tating effect on the humanitarian situation. A typical example of this was Iraq's inability to import equipment for water purification on account of dual-use potential of part of that equipment. As I foresaw a progressive erosion of the public acceptance of the sanctions regime if this negative effect was not addressed, I discussed the problem first with members of the U.S. mission in New York and subsequently with experts at the State Department in Washington in an attempt at finding ways of improving the existing procedures. First, I asked whether the United States could not allocate more people to its dual-use probes so that a complex contract might be "dissected" more quickly and the hold then limited to the sensitive products. Second, I wondered whether it would not be possible to weigh the proliferation risk against the humanitarian impact in such a way that a very remote dual-use potential might be winked at if the impact of an extended hold on, for example, the public health sector would evidently be disastrous. The U.S. response to my first suggestion was positive, but the officials were not prepared to let humanitarian considerations override the principle that in the Iraqi context even the slightest risk of proliferation was unacceptable. We openly discussed the difficulty that my terms of reference did not go beyond nonproliferation and the other provisions of Resolution 687, whereas the United States was also thinking in terms of regime change. After my discussions in Washington I thought I actually saw the number of holds go down for a while, but then they went up again. I had the distinct impression that with regard to Iraq there were many schools of thought in Washington, and that U.S. policy was being pulled in different directions. The outcome of Desert Fox—Saddam Hussein firmly in the saddle, inspectors gone, and nothing left but an ever more unpopular sanctions regime—could not possibly be what the United States and the United Kingdom had bargained for. A year later, Resolution 1284 had, if anything, only emboldened the Iraqi regime, and the only consensus I could detect in Washington was that this was not the way to deal with Saddam Hussein.

Iraqi Obstruction of Humanitarian Efforts

Against this discouraging background I began the new year by actively trying to devise a new way of enabling Iraqi citizens to perform the Hajj. This involved detailed discussions on financial and legal aspects, now in the light of the brand-new Resolution 1284, as well as on the less tangible subject of the dignity of Iraq. Ambassador Hasan warned me that any arrangement that would bypass the central bank of Iraq was unlikely to be acceptable to his authorities, but I replied that this time I had engaged Iraq's friends in the discussions from the very beginning and I expected them to help me find a solution that would be acceptable to the government of Iraq. In this endeavor I received invaluable help from my Malaysian colleague,

Ambassador Hasmy Agam. The latter, himself a hajji, roundly condemned the sanctions regime (he once said that the humanitarian consequences of the sanctions regime were so unacceptable that the risk of proliferation would have to be put up with), but unlike others who played Saddam Hussein's game in insisting that only its total abolition could bring solace to the Iraqi people, he was more than ready to help me look for practical solutions. In the end, we came up with a plan that all fifteen delegations could accept. It involved neither vouchers nor cash but arranged for direct payment of the expenses to be incurred by the pilgrims outside their own country, with a small amount of pocket money for each pilgrim to be distributed jointly by UN and Iraqi government representatives. I had it formally approved by the sanctions committee—a rare event: a decision—and obtained the green light from the Security Council, after which I submitted the plan to the Iraqi delegation. The Iraqi response was twofold. The plan was, like its predecessors, dismissed as a violation of the dignity of Iraq, and the sanctions regime was once again blamed for preventing Muslims from performing their holiest religious duty. At this point the government of Saudi Arabia stepped in and offered to defray all the expenses of all the Iraqi pilgrims, but this solution was rejected by Baghdad as well.

This turned out to be a recurring theme. Whenever we tried to alleviate the humanitarian impact of the sanctions regime there was prevarication or even obstruction on the Iraqi side. At first I ascribed these incidents to the inflexibility of the Iraqi bureaucracy, which after all was a phenomenon to be expected in a country under excessively authoritarian rule. I could not really believe that a government would deliberately exacerbate the suffering of its own people in order to score a political point. Even now I would hesitate to attribute each and every incident to such a sinister motive, but I came across more and more cases where the lack of Iraqi cooperation could not easily be explained otherwise.

One of the earliest cases of this kind that I recall concerned the targeted nutrition programs for children and nursing mothers. The Office of the Iraq Program reported to the sanctions committee that although everything had been agreed and was in place to launch these programs, the Iraqi authorities continued to procrastinate. In a subsequent meeting this was reported again. Then, in August 1999, the UN Children's Fund (UNICEF) published a survey according to which Iraqi children under five were dying at more than twice the rate they were ten years ago. This was a shocking finding, and obviously everyone blamed the sanctions regime. The report's recommendations, however, were scarcely addressed to the sanctions committee but did urge the government of Iraq to "urgently expedite the implementation of targeted nutrition programmes."

There was one incident where the Iraqi authorities' bad faith could not be doubted. A Netherlands-based nongovernmental organization had

offered to ship seventy-two tons of dry skimmed milk to Iraq. It was instructed by the Iraqi Ministry of Health to have the manufacturer indicate a shelf life of one year, instead of the customary two years or more. Upon the consignment's arrival in Iraq, a sample was taken for testing purposes. Six months later, the nongovernmental organization in question was informed that the consignment had been rejected. Counterchecks were made, both in the Netherlands and in a third country, which showed there was nothing wrong with the milk powder, but the Iraqi decision was declared final. Due to the arbitrarily reduced shelf life and the bulk of the consignment, reallocation was not an option. The shipment, with a value of about U.S.\$300,000, was then presumably destroyed. I related this incident in a meeting of the Security Council and was never again approached about a possible visit to Iraq.

This growing suspicion that the government of Iraq felt no qualms about manipulating the misery of its own people compounded the moral dilemma that would have faced the members of the sanctions committee anyway. Naturally, none of us enjoyed playing a part in a sanctions regime that, although aimed at Saddam Hussein and his weapons programs, was hurting innocent Iraqis, who were—precisely on account of the undemocratic nature of Saddam Hussein's regime—in no way responsible for the latter's actions. It was even conceivable that the oil-for-food program, with its centralized delivery mechanism, was supplying Saddam Hussein with a welcome instrument for exercising total control over his people. All this seemed to argue against the continuance of the sanctions regime. The overriding argument for retaining it, however, was that after the withdrawal of the weapons inspectors this was the only remaining obstacle to Saddam Hussein's ambition to acquire or develop nuclear weapons. This argument was not made any less cogent by Iraqi attempts at exploiting the international community's feelings of compassion.

Challenges to the Committee's Authority

It became clearer by the day, however, that the sanctions regime alone, now based on a resolution adopted with four abstentions, simply was not potent enough to generate the pressure needed to contain Iraq. It even seemed to lack the strength to hold its own. I could not tell whether it was wishful thinking or cunning, but the Iraqi diplomats in New York began to display a serene confidence that the sanctions were becoming so untenable that their days were numbered. This view was not limited to the delegation of Iraq. Other delegations, too, showed signs of decreasing respect for the sanctions regime and, consequently, for the sanctions committee.

A special role in all this was played by the delegation of France. In the sanctions committee France would consistently outshine Russia and China

in criticizing the way the United States applied the sanctions regime. It almost looked as though France was engaged in a competition with Russia to be recognized as Iraq's most devoted friend, with France simply having to work harder as a former member of the Gulf War coalition. Of course it was rumored that these two countries' policies vis-à-vis Iraq were primarily guided by economic considerations, but the claim that "it is all about oil" was—and still is—omnidirectional, so delegations took turns being suspected of having a secret oil agenda. As for France, I could not help feeling that more profoundly political considerations, involving its self-image, were at play.

Outside the committee as well, France claimed a leading role in the advocacy of Iraq's interests and the struggle against its isolation. By September 2000 a curious dispute arose about the interpretation of Resolution 670 (1990) concerning passenger flights to and from Iraq. The interpretation of this resolution had been the subject of discussion in the committee before, but it had always been impossible to reach a consensus. The resolution was unclear as to the degree of involvement of the sanctions committee. One school of thought read into the text that the committee simply needed to be notified of a proposed passenger flight, whereas the other school maintained that for such flights the committee's approval was required. The problem was that both terms—notification and approval—appeared in the text. I had at first been unwilling to resign myself to this ambiguity and had asked the UN's legal counsel, Hans Corell, to inform the committee which interpretation was the correct one, but Corell had replied that from a legal point this could not be determined. Resolutions were often drafted in haste, and unclear provisions were not uncommon. Usually in such cases, the only way out was to submit the dilemma to the Security Council, which could then cut the Gordian knot. As I did not have a high opinion of the Council's knot-cutting propensity, I had at last settled for the pragmatic procedure, which I was told had been good enough for my predecessors. This meant that I informed the committee that as chairman I had no choice but to follow the stricter interpretation, and I would therefore treat every communication, even if it was worded as a notification, as a request for approval. This was largely academic because such flights were routinely approved anyway, and all members of the committee had always gone along with this practice. It was understood by all that while there was no consensus on the interpretation of the resolution, there was agreement on the way the chair had to deal with the problem in practice.

Nevertheless, on September 21, 2000, the French delegation had a letter delivered to me notifying the committee of a civilian flight to Baghdad with French doctors, artists, and sports personalities, due to depart very early the following morning. By announcing this flight at such short notice, France was bringing things to a head, because it was technically impossible

to treat this letter as a request for approval. In order to enable the committee to follow its agreed practice until agreement on a new practice could be reached, I formally requested France to delay the flight by half a day. This request was denied, and I reported the French decision to the Security Council, which, as expected, was unable to take a position on the matter.

The incident blew over, but it did not pass unnoticed that France—not Russia, China, Malaysia, or any other country—had taken it upon itself to defy the sanctions committee’s chair in a way that had not been seen before. In my subsequent discussions with members of the French delegation, I detected some embarrassment, which strengthened my impression that the lengths to which France would go in its solidarity with Iraq were beginning to puzzle even its own insiders.

France risked giving the wrong signals to the Iraqi leadership, since it encouraged their noncompliance with international demands. The Iraqis themselves might be forgiven for believing that the sanctions were quietly withering away, but it was inconceivable that the authorities in Paris, Moscow, and Beijing seriously held this view. In the past, some timid sanctions had indeed become inoperative and now lay dormant, but the sanctions against Iraq were the real thing. They had been devised as a substitute for war, and once the war had taken place anyway their retention had been passionately defended by those who wanted to discourage the United States from pushing through to Baghdad. Sanctions had then been the darling of the antiwar lobby. Such sanctions would not simply go away. They were the strongest coercive measure “not involving the use of armed force,” to quote Article 41 of the UN Charter, and if they were to go, they could only be replaced by war. On the one hand, I fervently wished this truth would dawn on all those who supported Saddam Hussein, for they were clearly luring him into a dead end. On the other hand, I sometimes wondered whether brief military action might not be more humane than comprehensive sanctions spun out over almost a decade.

In the end, it all seemed to boil down to the question of respect for the authority of the Security Council. My tenure as chairman of the Iraq sanctions committee ended on December 31, 2000. Eighteen days earlier, George W. Bush had been elected the forty-third president of the United States. Everyone expected his administration to come up with a new Iraq policy. The Republicans had, admittedly, always shown less respect for the United Nations than the Democrats, but they were less likely to put up with Saddam Hussein’s decade-long disrespect for the authority of the Security Council.

A Postscript

After my departure from both the Security Council and the sanctions committee, the fault line between France, Russia, and China on the one hand

and the United States and Britain on the other continued to bedevil the permanent five's handling of Iraq. In the autumn of 2002 there was a brief respite, when, under the influence of the U.S. military buildup and the professed readiness of the United States to "go it alone," Resolution 1441 was adopted unanimously. For those who remembered how in 1999 the adoption of Resolution 1284 was endlessly delayed by concerns about insufficient consideration for Iraqi sensitivities, it was remarkable to see France and Russia vote for a resolution obliging Iraq to allow Iraqi officials and other persons to leave the country accompanied by their family members in order to be interviewed by IAEA and the UN Monitoring, Verification, and Inspection Commission (UNMOVIC) without the presence of observers from the Iraqi government. I felt that this was the true litmus test for Iraq's preparedness to come clean. As was to be expected, however, Iraq failed to pass this test; yet France and Russia maintained that the inspections were working.

As for the legality of the military campaign that is in progress as this postscript is being written, the debate is somewhat reminiscent of the one that followed air strikes by the North Atlantic Treaty Organization against the Federal Republic of Yugoslavia on account of Kosovo in March 1999. Some will stress the difference between the objective of averting a humanitarian disaster and that of eliminating weapons of mass destruction (let alone that of changing a regime), others will insist that both interventions were a violation of international law, but few will deny that there is a problem of legality. The United Kingdom's frantic but vain attempts at securing a "second resolution" will make it difficult for anyone to claim that the war on Iraq has an unassailable legal basis. In my opinion there is no doubt that it is not as it should be if military action is resorted to without a Security Council mandate, but it is not right either if a country consistently flouts mandatory Security Council resolutions and gets away with it because the threat of a veto by one or two permanent members prevents the Security Council from taking action against it. It is difficult to tell which of the two is the more damaging to the authority of the Security Council.

Notes

1. This section draws partly on David Cortright and George A. Lopez, "Sanctions Against Iraq," in David Cortright and George A. Lopez, eds., *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder: Lynne Rienner, 2000).



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الجمهورية العراقية
 وزارة الخارجية
 النخبة

٦٠٧
 ٢٠٠٣/٩/٢٥

سري للغاية وعلى الفور
 العدد: ٩٥٢٥/٩
 تاريخ: ٦ اربسب ١٤٢٢ هـ
 ٢٠٠٣/٩/٢٥

الرفيق عامر محمد رشيد وزير النفط المحترم

م/ دعم خارجي

امر السيد الرئيس القائد (حفظه الله) بصدد ما جاء بكتاب السفارة العراقية في القاهرة في ١٨/٩/٢٠٠٣ بما يشتر
 بخصم ستة ملايين برميل نفط للسيد الاستاذ الصديقي محمود التميمي تكديرا لمواقفه القومية التي ابدتها منذ مؤام
 العدوان الثلاثيني عام ١٩٥٦ في مواجهة الحصار القائل على قطراننا العزيز
 لتفضل بالاطلاع على ما جاء فيه
 بوجاء التنفيذ عاجل
 مع التأكيد

المرفقات
 صورة كتاب السفارة العراقية في القاهرة

الفيل
 د. عبد حميد الخطيب
 سكرتير رئيس الجمهورية
 ٢٠٠٣/٩/٢٥

نسخة من
 السيد امير علي محمد الجمهوري المحترم
 السيد وزير الاعلام المستعبد
 ليرسل اليكم صورة الكتاب
 لتعرض اليه مع التأكيد

Oil Coupons

Coupon No. 1

In the Name of Allah the Most Merciful

The Republic of Iraq
Presidency of the Republic
The Secretary

Top Secret and most urgent

Number 9525/K
Date 6 Rajab, 1422
24 September, 2002

Comrade 'Amer Muhammad Rashid Minister of Petroleum

External Support

The President leader (may Allah preserve him) has ordered in connection with a letter from the Iraqi embassy in Cairo of 18 August, 2002 as follows: six million barrels of petroleum will be allocated to Mr. Ustadh [honorific title for professors, lawyers and journalists] journalist Mahmud Al-Tamimi in appreciation of his nationalist positions which he has adopted since the thirty-nation aggression [the Iraqi designation for the coalition which expelled the Iraqi army from Kuwait] in the year 1991 in confronting the unjust blockade of our dear country.

Please be informed of the content
And for urgent execution
With appreciation

Attachment


A copy of the letter [from] the Iraqi embassy in Cairo

Al-Fariq [Lt.General]
D. Abd Hamid Al-Khattab

Secretary of the President of the Republic
24/9/2002

Copies to
The [person] I charge of the Republican Guard
Mr. Minister of Defense

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



 سري للغاية وعلى الفور
 العدد /
 التاريخ ٦ اشجان / ١٤٢٢ هـ
 ٤٤ / ايار / ٢٠٠٣ م

جمهورية العراق
 وزارة النفط
 السكرتير

الرفيق / عامر محمد رشيد وزير النفط المحترم

امر السيد الرئيس القائد (حفظه الله) بصدد الكتاب الوارد من وزارة الاعلام والثقافة
 ٩ ابريل ٢٠٠٣ تقرر الاتي:-
 مصر ٧ مليون برميل نفط تصروف للرقصة كيتي تقدير الجهد ما في دعم الرقص الشرقي
 تدائب في مواجهه المعولمة والغزو الثقافي والتدخل الاجنبي سكسوني في شئون الرقصات

للتفضل بالاطلاع على ما فيه
 برجاء التنفيذ العاجل
 مع التقدير


 سكرتير رئيس الجمهورية
 ٢٠٠٣ / ٥ / ٤٤

In the Name of Allah the Most Merciful

The Republic of Iraq
Presidency of the Republic
The Secretary

Top secret and most urgent

Number 9525/K
Date 6 Sh'aban 1422
24 May 2002

Comrade 'Amer Muhammad Rashid Minister of Petroleum

The president leader (May Allah preserve him) in connection with a letter from the ministry of information and culture 6 April 2002 has ordered the following:

7 million barrels of oil will be allocated to the dancer ^SKitty for her persistent efforts to preserve the oriental dance in the face of globalization [and] the cultural invasion and the Anglo-Saxon interference in the affairs of the [Arab] dancers.

Please be informed of the content
And for urgent execution
With appreciation

Secretary of the President of the Republic
24/5/2002
[signature identical to order No. 1)